



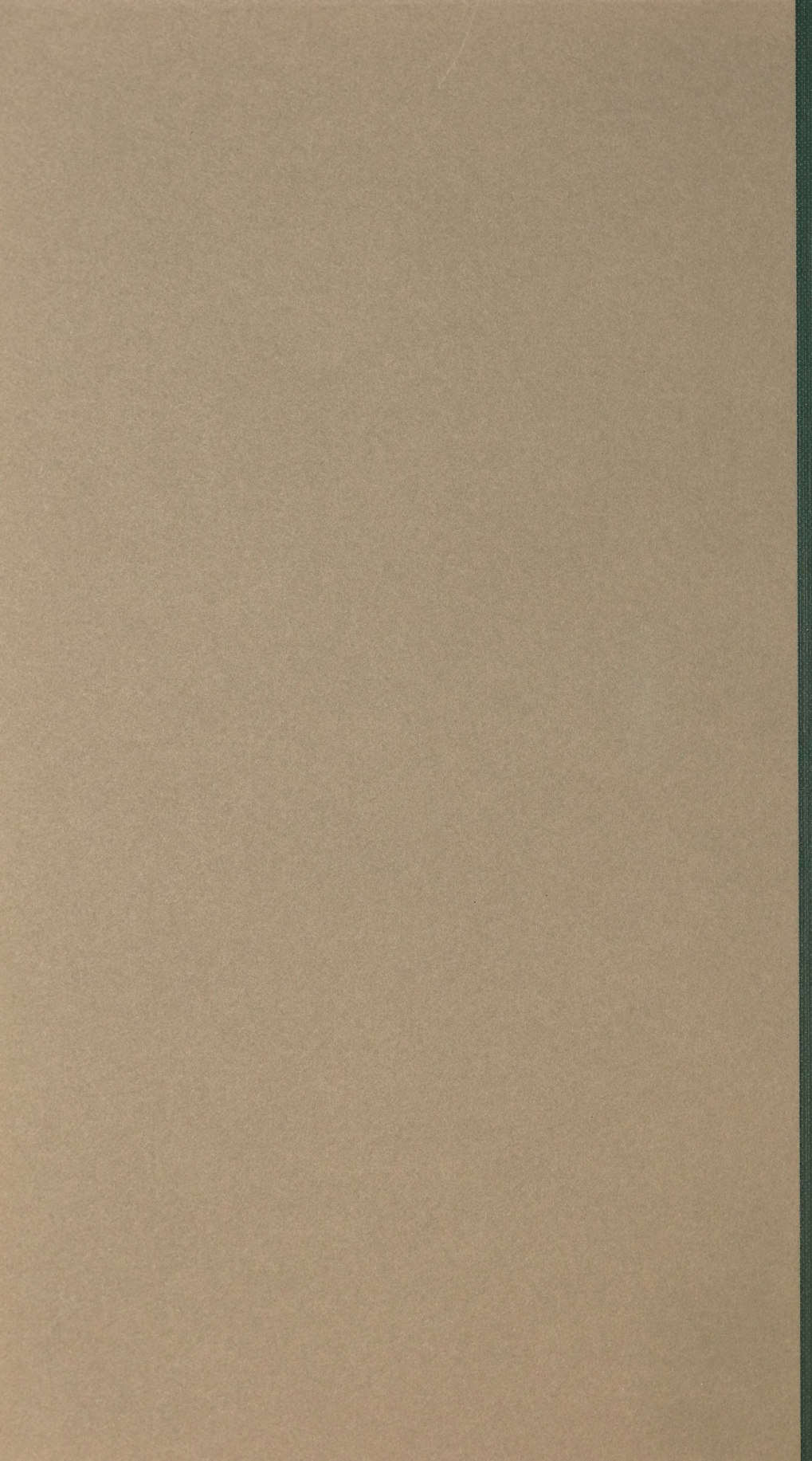
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Government
Publications

Canada. Parliament.
House of Commons.
Special Cttee. on Judges Salaries.
Minutes of Proceedings and Evidence.
1928
No. 1-8



Government
Publications

SESSION 1928
HOUSE OF COMMONS

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SPECIAL COMMITTEE

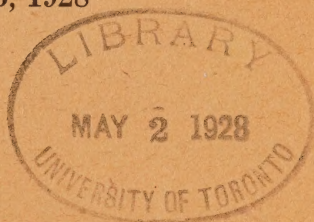
ON

JUDGES' SALARIES

MINUTES OF PROCEEDINGS AND EVIDENCE *and Report*

Nos. 1, 2 and 3—APRIL 25, 1928

WITNESSES:



Their Honours, Chief Justice J. T. Brown, Regina; Mr. Justice H. Y. Macdonald, Regina; Mr. Justice A. K. Dysart, Winnipeg.

Their Honours, Judges E. C. S. Huycke, Peterboro; L. St. G. Stubbs, Winnipeg; A. Constantineau, Vankleek Hill; J. A. Barry, St. John; J. A. Jackson, Lethbridge; D. O'Connell, Toronto; W. S. Stewart, Charlottetown; F. A. G. Ouseley, Moose Jaw.

MEMBERS OF THE COMMITTEE

Thorson, J. T. (Chairman)

Messieurs

Bell (Hamilton West),
Bell (St. John-Albert),
Boys,
Cantley,
Carmichael,
Duff,
Fafard,
Gershaw,

Hay,
Ladner,
Lapointe,
Macphail (Miss),
Sanderson,
Thorson,
Totzke,—15

(Quorum 8)

A. J. McKENNA,
Clerk of the Committee.

ORDER OF REFERENCE

JUDGE'S SALARIES

HOUSE OF COMMONS,

TUESDAY, March 20, 1928.

Resolved: That a Special Committee consisting of fifteen members to be selected at a later date be appointed to consider the question of the adequacy of the remuneration paid to the judges of the various courts in Canada, and all matters pertaining thereto, with power to call for persons, papers and records, to examine witnesses under oath, and to report from time to time.

Attest.

ARTHUR BEAUCHESNE,

Clerk of the House.

FRIDAY, April 13, 1928.

Ordered: That, in accordance with the resolution passed by this House on the 20th March, 1928, the Special Committee to consider the question of the adequacy of the remuneration paid to the judges of the various courts in Canada, and all matters pertaining thereto, consist of the following members: Messrs. Bell (Hamilton West), Bell (St. John-Albert), Boys, Cantley, Carmichael, Duff, Fafard, Gershaw, Hay, Ladner, Lapointe, Macphail (Miss), Sanderson, Thorson and Totzke, with power to send for persons, papers or records and to report from time to time.

Attest.

ARTHUR BEAUCHESNE,

Clerk of the House.

THURSDAY, April 19, 1928.

Ordered: That the said Committee be given leave to print their proceedings and any evidence taken by the Committee to the number of 500 copies in English and 250 copies in French, and that Standing Order 64 be suspended in relation thereto.

Attest.

ARTHUR BEAUCHESNE,

Clerk of the House.

THURSDAY, April 19, 1928.

Ordered: That the said Committee be given leave to sit while the House is in session.

Attest.

ARTHUR BEAUCHESNE,

Clerk of the House.

FIRST REPORT

Mr. Thorson, from the Special Committee appointed to consider the question of the adequacy of the remuneration paid to the Judges of the various Courts in Canada, presented the First Report of the said Committee, which is as follows:

Your Committee recommend that they be given leave to print their proceedings and any evidence taken by the Committee to the extent of 500 copies in English and 250 copies in French, and that Standing Order 64 be suspended in relation thereto.

Your Committee also recommend that they be given leave to sit while the House is in session.

On the motion of Mr. Thorson the report was concurred in.

MINUTES OF PROCEEDINGS

THURSDAY, April 19th 1928.

The Special Committee appointed to consider the question of the adequacy of the remuneration paid to the Judges of the various Courts in Canada, met at 11 o'clock, the following members being present, viz.: Messrs. Bell (St. John-Albert), Boys, Carmichael, Duff, Fafard, Gershaw, Ladner, Lapointe, Macphail (Miss), Sanderson, Thorson, Totzke.

On motion of Mr. Ladner, Mr. Thorson was elected Chairman.

After discussion, Mr. Ladner moved that the following Judges be requested to attend at the next meeting of the Committee for the purpose of being heard regarding the Salaries of County Court Judges, viz.: Their Honours Judge J. A. Barry of St. John, N.B., Judge A. Constantineau of Ottawa, Ont., Judge E. C. S. Huycke of Peterboro, Ont., Judge Coatsworth of Toronto, Ont., or such County Court Judge as he may select as his representative, Judge L. St. G. Stubbs of Winnipeg, Manitoba, and Judge J. A. Jackson of Lethbridge, Alta. Motion agreed to.

Ordered, That the Clerk advise the said Judges by telegram.

After further discussion, Mr. Boys moved that the Chairman extend an invitation to the Chief Justice of the Supreme Court of Canada, to the President of the Exchequer Court of Canada, and, through the Chief Justice of the different Provinces, to the Superior Court Bench of each Province, to attend and be heard before the Committee, if they so desire. Replies to be sent before Wednesday next.—Motion agreed to.

Mr. Boys moved that the Department of Justice be requested to prepare, for the information of the Committee, the following statements, viz.:

1. A statement regarding the jurisdiction of the County Court and District Court Judges throughout Canada; to be given by provinces.

2. A statement showing the jurisdiction of the Circuit and Superior Court Judges of Quebec.

3. A statement of the Statutory provisions regarding pensions, to which the various judges of Canada are entitled; and

4. A statement of the present salaries of the various judges and what such salaries were at the time of the last increase made thereto.

Motion agreed to.

Resolved, That representatives of the Canadian Bar Association be also heard at the next meeting of the Committee.

Mr. Ladner moved that the Committee recommend that they be given leave to print their Proceedings and any evidence taken by the Committee, to the number of five hundred copies in English and two hundred and fifty copies in French for the use of members of the House and of the Committee, and that Standing Order 64 be suspended in reference thereto. Motion agreed to.

Mr. Ladner also moved that the Committee ask for leave to sit while the House is in Session. Motion agreed to.

The Committee adjourned till Wednesday next, April 25th, at 10 o'clock a.m.

WALTER TODD,
Clerk of the Committee.

WEDNESDAY, April 25, 1928.

The Special Committee appointed to consider the question of the adequacy of the remuneration paid to the Judges of the various Courts in Canada, met at 11 a.m., the Chairman, Mr. Thorson, presiding.

All the members of the Committee were present.

The Minutes of the previous meeting were read and approved.

The Chairman read communications received in reply to invitations to attend and be heard before the Committee; from the following:—Their Honours, Chief Justice Anglin, Chief Justice of Canada; Chief Justice Macdonald, Victoria, B.C.; Chief Justice Harvey, Edmonton, Alta.; Chief Justice Sir F. W. G. Haultain, Regina, Alta.; Chief Justice Perdue, Winnipeg, Manitoba; Mr. Justice Trueman, Winnipeg, Man.; Chief Justice Sir William Mulock, Toronto, Ont.; Chief Justice Lafontaine, Montreal, P.Q.; Chief Justice Mathieson, Charlottetown, P.E.I.; and Chief Justice Sir J. Douglas Hazen, St. John, N.B.

The Committee proceeded to the hearing of evidence. Their Honours, Judges E. C. S. Huycke, L. St. G. Stubbs, A. Constantineau, J. A. Barry, and J. A. Jackson were called and made statements as to the adequacy of the remuneration paid to the County Court Judges of the various Provinces.

Statements prepared by the Department of Justice in accordance with a resolution of the Committee were ordered printed as part of the record.

The Committee adjourned until 3.30 o'clock this afternoon.

A. J. McKENNA,
Clerk of the Committee.

WEDNESDAY, April 25, 1928.

The Special Committee appointed to consider the question of the adequacy of the remuneration paid to the Judges of the various Courts in Canada, met at 3.30 p.m., the Chairman, Mr. Thorson, presiding.

All the members of the Committee were present.

The Minutes of the previous meeting were read and approved.

The Chairman read a communication from the Honourable A. K. Maclean, President of the Exchequer Court of Canada. The Chairman also read a communication from the Montreal Board of Trade presenting a resolution favouring increases in the remuneration paid the judiciary.

The Committee proceeded to the hearing of evidence.

Moved by Mr. Bell (Hamilton West) that their Honours, Judges D. O'Connell, of Toronto; W. S. Stewart, of Charlottetown; and F. A. G. Ouseley, of Moose Jaw, should be heard by the Committee and that expenses in connection with their attendance should be paid. Motion carried.

The witnesses made statements and were discharged.

Moved by Mr. Ladner that their Honours, Chief Justice J. T. Brown, Regina; Mr. Justice H. Y. Macdonald, Regina; and Mr. Justice A. K. Dysart, Winnipeg, should be heard by the Committee and that expenses in connection with their attendance should be paid. Motion carried.

The witnesses made statements and were discharged.

The Committee adjourned until 10 o'clock, Wednesday, May 2nd, or if witnesses are not available, then at the call of the Chair.

A. J. McKENNA,
Clerk of the Committee.

MINUTES OF EVIDENCE

COMMITTEE ROOM 425,
HOUSE OF COMMONS,
WEDNESDAY, April 25, 1928.

The Special Committee to consider the question of the adequacy of the remuneration paid to the Judges of the various courts in Canada met at 11 o'clock, a.m., the Chairman, Mr. J. T. Thorson, presiding.

The CHAIRMAN: We have a quorum, and the Committee will come to order. I will ask the clerk to read the minutes of the last meeting.

Minutes read.

The CHAIRMAN: Are these minutes correct?

Mr. GERSHAW: I move their adoption.

Motion agreed to.

The CHAIRMAN: As the result of the instruction given by the Committee telegrams were sent to the following County Court Judges: Their Honours Judge E. C. S. Huycke, Peterborough, Ontario; Judge L. St. G. Stubbs, Winnipeg; Judge J. A. Jackson, Lethbridge; Judge J. A. Barrie, St. John, New Brunswick, and a letter was sent to His Honour Judge A. Constantineau of Ottawa. I believe all of these gentlemen are present. A telegram was also sent to His Honour Judge Emerson Coatsworth of Toronto asking him to name a representative to appear before the Committee, and I understand he has named His Honour Judge O'Connell who is present.

Then, acting under the instructions of the Committee I sent a telegram to the various Superior Court benches as follows:—

Committee on judges' salaries is organized and will proceed to business next Wednesday when representatives of the County Court Judges and the Canadian Bar Association will be heard. Committee extends invitation to Superior Court Bench of your province to be heard if you so desire.

I sent this telegram to the Chief Justice of the various provinces where the Chief Justice is named, and where no Chief Justice has been named. I sent it to the Chief Justice of the Appellate Division. I also sent a letter to the same effect to the Chief Justice of the Supreme Court of Canada and to the President of the Exchequer Court.

To these I have received numerous replies. Is it the wish of the Committee that I read them?

Hon. Mr. LAPOINTE: I think it would be as well to have them read and included in the record.

April 24th, 1928.

DEAR SIR: Your letter of the 23rd instant reached me this morning and I have submitted it to my colleagues in the Supreme Court of Canada.

While we appreciate the courtesy of the Committee in affording us an opportunity to appear before it, should we so desire, we have no doubt that the Committee will have available all the facts and information material to be considered in dealing with the matter referred to it, and we, therefore, feel that it will be unnecessary for us to attend.

I have the honour to remain,

Sir,

Very respectfully yours,

(Signed) FRANK A. ANGLIN,
Chief Justice of Canada.

SPECIAL COMMITTEE

J. T. THORSON,
Ottawa.

VICTORIA, B.C., April 21, 1928.

Much appreciate invitation to present view of our Judges facts will no doubt be presented by others nearer at hand we feel question will be justly dealt with by your committee.

CHIEF JUSTICE MACDONALD.

EDMONTON, ALTA, April 20, 1928.

Our Judges appreciate invitation and will gladly furnish any desired information in our power but otherwise do not wish to make any personal representations.

(Signed) HORACE HARVEY,
Chief Justice.

REGINA, SASK., April 20, 1928.

Members of Court of Appeal and King's Bench appreciate courtesy of invitation and will send representative to be present next Wednesday.

(Signed) F. W. G. HAULTAIN.

WINNIPEG, MAN., April 21, 1928.

Thanks for your telegram and invitations the Chief Justices and Judges of the Superior Court of Manitoba accept your invitation and have named Mr. Justice Dysart to attend your meeting Wednesday and represent them.

(Signed) W. E. PERDUE.

WINNIPEG, MAN., April 23, 1928.

Fullerton, Dennistoun, Prendergast and self appreciate invitation stop. If required would be pleased to be of service stop. It is our view that as committee of association will cover ground no purpose would be served by the attendance of a representative on behalf of Court of Appeal.

(Signed) W. H. TRUEMAN.

OSGOODE HALL, TORONTO,

April 23rd, 1928.

MY DEAR SIR,—Personally and on behalf of my Colleagues of the Bench of the Supreme Court of Ontario, I desire to thank you and the Parliamentary Committee that is about to consider judicial salaries for the courtesy in inviting expressions of opinion from my Colleagues of the Bench in regard to the proposed subject of the enquiry.

With great respect, my Colleagues hesitate to appeal to the Committee for increases, being content to leave the matter in the hands of the Committee. I have, however, written The Honourable Minister of Justice upon the subject and it may be that he will submit my communication to your Committee.

Yours respectfully,

(Signed) W. MULOCK.

OSGOODE HALL, TORONTO,

April 23, 1928.

MY DEAR MINISTER,—I have received a telegram from Mr. J. T. Thorson, M.P., Chairman of the Special Committee considering the matter of Judges' salaries, and intimating that the Committee would be pleased to receive from the Members of the Supreme Court Bench of Ontario any views they might desire to communicate, touching such proposed increase.

I have not been able to bring the telegram to the attention of every one of my colleagues but have learned the views of probably two-thirds of them, and whilst they are most appreciative of the courtesy of the Committee, they hesitate to make known to the Committee the position in which they find themselves because of the present inadequacy of their judicial salaries.

I may say that when some years ago, The Hon. Mr. Doherty, being then Minister of Justice, Parliament increased the salaries of the Judges of this Court, I did not accept such increase, nor will I do so should Parliament now make a further increase. Under these circumstances perhaps there is not the same reason for my not making known to yourself and to the Committee my views upon the subject as there would be if I were to be a beneficiary in the event of Parliament granting any increase. Further, as Chief Justice of the province perhaps a duty rests upon me to make known to you, and if you see proper through you to the Committee, my views upon the matter.

The Judges of the Supreme Court of the provinces are charged with the gravest responsibilities that devolve upon all servants of the Crown, and it is of the first importance that they should, at all times, be free from conditions that may be calculated to interfere with the proper discharge of their judicial duties. If, for example, a Judge's salary is so inadequate that he is unable to maintain his family, including himself, in keeping with his high office and perhaps in consequence runs into debt, his efficiency is necessarily impaired. Under such circumstances the average man cannot escape the worry which accompanies *res angusta domi*. Such worry will accompany him on the Bench, and may impair his efficiency.

The Statute requires the Members of this Bench to reside either in Toronto or within five miles of the city. The expense of living in Toronto has enormously increased within late years. I doubt if a dollar in Toronto to-day will go much further than fifty cents went before the war.

Last year one of my Brethren on the Bench, who had been a member for many years, died. He was an economical, careful living man with quite a small and inexpensive family, but he has left his widow almost penniless.

One of my colleagues, who has been on the Bench for many years, and had considerable means when appointed, has been obliged to practically eat them all up because of the inadequacy of his salary and the cost of living. He is a thrifty careful living man.

Doubtless these cases illustrate generally the conditions of my colleagues.

I think you will readily agree with me that nothing could be more unfortunate to the country than an impecunious Bench. It is, I think, beyond doubt, of national importance that the conditions on the Bench be such as will attract to it men of outstanding qualifications.

Yours respectfully,
(Signed) W. MULOCK.

SPECIAL COMMITTEE

Hon. ERNEST LAPOINTE,
Minister of Justice,
Ottawa.

MONTREAL, April 21, 1928.

DEAR SIR,—I desire at the outstart to extend my thanks to the members of the Committee appointed to consider the question of the judges' salaries and particularly to yourself for their courtesy in inviting me to be present as Chief Justice of the Province of Quebec, before your Committee, in case I desire to be heard upon the question with the study of which you are entrusted.

Under the circumstances, I think that it is preferable that I shall not appear. If it is necessary, nevertheless, to express an opinion, I confine myself to the following considerations:—

1. It is a well recognized principle of government that the salaries of the judges should be sufficient to relieve them from anxiety and permit them to occupy the social position which appertains to their rank;
2. The cost of living in the city of Montreal, to-day, is quite as high as in any of the American cities;
3. The present salaries of the judges is insufficient and should be substantially increased, in order that they may maintain a position in keeping with their office.

If, however, it is the desire of the Committee to hear me, I will consider it my duty to attend.

Please accept, Sir, the assurance of my highest consideration.

(Signed) E. LAFONTAINE.

SIR,—Replying to your telegram of the 19th instant inviting the Judges of the Superior Court Bench of Prince Edward Island to be heard before your Committee if we so desired, I wish first to express the appreciation of myself and associate Judges for the courtesy your Committee has thus extended to us and to say that we are content to have our general case included in the presentation by the Canadian Bar Association before your Committee.

With particular reference to our position, I may add: that, we find the salaries now paid quite insufficient to provide for the living necessities of men in our position.

Any advantages which we may at any former time have had in the cost of living in this province have almost or altogether vanished, and compared with the larger centres, are offset by the great cost of sending our children elsewhere for any advanced education.

The conditions of life in all parts of Canada work out to a practical equality in the qualifications required of the judiciary, the disabilities imposed by the judicial office, the standards to be maintained and the cost of their proper maintenance.

All of which is respectfully submitted.

(Signed) J. A. MATHIESON,
Chief Justice, Supreme Court of Prince Edward Island.

Dated at Charlottetown, this 23rd day of April, A.D. 1928.

ST. JOHN, N.B., Apr. 24, 1928.

Yours of Nineteenth. The Judges of our Supreme Court are all occupied at Circuit and otherwise and it is impossible for any of them to go to Ottawa this week. If a representative would be of any service on May 2 Judge Leblanc could arrange to attend. I will be out of town for some days but if you think his presence desirable please wire Judge A. T. Leblanc at Moncton, N.B.

(Signed) J. D. HAZEN.

Your telegram date to Robert E. Harris, Chief Justice, Halifax, N.S., is undelivered account Justice Harris being out of town until May first.

(Signed) Canadian National Telegraphs,
House of Commons.

HALIFAX, N.S., April 24, 1928.

Please notify Committee on increases of Judges' salaries that council of Nova Scotia Barristers Society have passed resolution approving and requesting that Parliament grant increases to our judiciary.

(Signed) ROBERT H. MURRAY, *President*.

Colonel THOMAS CANTLEY, M.P.,
Ottawa.

Mr. CARMICHAEL: I believe a motion was made last day that we should have something before us to show the value of the dollar now, in comparison with when the last raise was made.

Mr. LADNER: I communicated with Mr. Coats, and I have his letter here, and also a table showing the value of the dollar, and the changes in the cost of living between 1900 and 1927, using 1913 as a base. I will put these into the record.

DOMINION BUREAU OF STATISTICS,
OTTAWA, April 24, 1928.

DEAR MR. LADNER.—I am enclosing herewith a table of the cost of living which I hope will be of service to you.

Prior to 1913, our materials are limited to food, fuel and lighting, and rents. Index numbers covering 1900, 1905, 1909 and 1910 for these appear in the enclosed.

Subsequent to 1913 our data are comprehensive, covering food, fuel and lighting, clothing, rents and sundries, year by year from 1913 to 1927. The food index includes about 45 articles; fuel and lighting includes coal, wood, gas and electricity; clothing, a general line of men's and women's clothing, boots and shoes, etc.; while sundries include street car fares, newspapers, doctors' fees, hospital charges, drugs and toilet articles, books, household furnishings, etc., etc.

These indexes should convey a fairly accurate idea of how the cost of living has gone up since the beginning of the century. Compared with the pre-war year the advance is about 50 per cent. Compared with the beginning of the century it has about doubled.

Yours faithfully,

R. H. COATS,
Dominion Statistician.

L. J. LADNER, Esq., M.P.,
House of Commons,
Ottawa.

SPECIAL COMMITTEE

CHANGES IN COST OF LIVING, 1900 TO 1927

Base 1913=100

Prior to 1913 data are available for food, fuel and lighting and rents.
On the 1913 base the index numbers are as follows:

	Food	Fuel and Lighting	Rents
1900..	70.6	79.7	60.5
1905..	76.8	86.7	70.5
1909..	87.1	95.1	
1910..	91.0	97.2	72.0 (Dec.)

RETAIL PRICES, RENTS AND COSTS OF SERVICES, 1914 TO 1927

Prices in 1913=100

	General Index	Food	Fuel and Lighting	Rent	Clothing	Sundries
1913..	100	100	100	100	100	100
1914..	101	104	98	97	101	100
1915..	103	105	96	94	110	101
1916..	111	117	98	95	126	106
1917..	131	151	109	102	148	116
1918..	149	173	120	108	173	130
1919..	164	185	131	118	199	144
1920..	190	213	156	135	242	157
1921..	167	163	166	147	197	160
1922..	153	138	159	153	167	160
1923..	153	139	159	157	165	159
1924..	150	137	155	158	161	156
1925..	152	143	152	158	161	153
1926..	153	151	152	156	158	151
1927	152	148	149	156	156	150

The index numbers from 1913 on are based as nearly as possible on *average conditions*, not on cost of living as relating to any particular class in the community.

The CHAIRMAN: Judge Huycke, will you be good enough to state to the Committee your views on this matter.

His Honour Judge HUYCKE: Hon. lady, hon. Minister, Mr. Chairman and gentlemen: I wish to thank you very much for the courtesy of asking, not only myself but other gentlemen, my colleagues, to come here and discuss this matter before you. It happens that for some years I have been the President of the County and District Judges' Association of Ontario, also I might say the Chairman for some time of the Board of County Judges of Ontario, which has to do with the fixing and regulation of tariffs, and rules of different kinds.

For a short time past there has been a skeleton organization, in view of the emergencies that have arisen over the Dominion of Canada, and my colleagues have honoured me with the position of President of that body; I hope it is only to be pro tem. I do not know whether they rely upon my capacity for working without complaint or some opinions they may have as to my ability; however, the burden has been cast upon me of introducing this matter to you. I shall endeavour to introduce it, but I am not going into details, because I will be followed by other gentlemen here, colleagues of my own, but I shall endeavour to present it generally and broadly and as briefly as I can, from the general standpoint, and the general standpoint only.

I have noticed, sir, that you have received some letters from the Judges of the High Courts of the Dominion. I wish to disabuse the minds of some people; I do not know who they are, but I hope it has not extended to the Committee, but it has been suggested that our interests are inimical to the interests of the High Court Judges, that we are opposed to them and are unfriendly to them. The very opposite is the case, indeed. We do not propose to suggest, and do not

[Judge E. C. S. Huycke.]

suggest that they are getting too much. We think they are not; we think they are not getting enough. I am sure we consider that they are not getting enough, considering the very important position they hold.

You have before you, I think, a certain memorial which was sent out under the auspices of the County and District Court Judges' Association. If you have not got that memorial, if you will let me know I will see that you get a copy of it. I shall not take up any time in connection with it now. You will see in that memorial the basis, not of our complaint but of our request to you. Allow me further, hon. lady and gentlemen, to say this, that we somewhat hesitated to come before you, whether or not we should do so, whether it was right and proper that we should, but in view of the circumstances that we were driven to despair we had to, in order to bring our case properly before you. We do not appear before you by any means as mendicants; we come before you gentlemen representing the Crown and representing the country, to ask you to treat us fairly; in other words, we think and we suggest that you might consider that some of us are giving more than we are getting, and that we should receive greater compensation for the work we do. Our proposal, in very brief terms, as you will see set out in this memorial, is that there should be a minimum salary of \$9,000, and failing that we think there should be, or suggest that there should be some kind of a graduation or scale as between the Judges of the High Court and the Judges of the Courts we have the honour to represent. In that way we suggest that regardless of the \$9,000, whatever your Committee and the House of Parliament shall see fit to give to the Judges of the Higher Courts, we should receive at least three-quarters of that amount.

This proposition, briefly, is placed before you in this memorial. That is the proposition we are brought here to advocate, not to advocate, perhaps, but to outline before you and give some reasons why it should meet with favour before you. If the arguments advanced in the letters I heard read this morning are true, that the Judges of the Higher Courts cannot make both ends meet, then it applies with more force to us who receive less salary. The salary of the County and District Judges now is \$5,000; some of the High Court Judges get \$9,000, so that if they cannot live on \$9,000 it is rather unreasonable to expect us to live properly on \$5,000, because we have to live, move and have our being in the same position as they do. Our qualifications as to practising at the Bar, examinations, and everything of that kind are the same as theirs. Without attempting to put ourselves upon an equality with them, in one sense of the word, we have suggested that the difference, the disparity, is to great, and that it should be eliminated to some extent. Perhaps it did not exist from Confederation up, as will be pointed out by some of my colleagues who will come here later on.

There is one matter I would like to urge upon you, and to point out what I think is the importance of the outlying District and County Court Judges. We stand for the administration of law and order, justice and equity, among the people. Some of us stand upon the very outposts of legal institutions, at such places in Ontario as Rainy River and Cochrane, and in the West away out in the northern parts of Saskatchewan, Alberta and British Columbia. The position I wish to take before you is this, gentlemen, that with reference to any District or County Court Judge, I do not care where he is, his selection and his proper treatment is just as important, and I beg to say more important than that of other Judges, and for this reason, that while he is not ostracised he is isolated. Each one of us is living in a different centre, in a different place, and we are looked up to as the persons who administer justice and enforce the due administration of the law, and with all due modesty, on behalf of myself and my colleagues, I venture to suggest that if an inquiry were made, in the minds of the common people 90 per cent of them look to us for British justice, more than they do to the High Court Judges, who come

[Judge E. C. S. Huycke.]

once or twice a year and then go away again. For that reason, gentlemen of capacity and wisdom should be appointed to these positions. I do not say they are not, but when they are, compensation should be given to them, not extravagantly, but in such a way as will be consonant with the dignity of the position and the esteem in which they are held by the people about them.

It is not a question of the work that is done. Some people might say, Well, a Judge at Cochrane, a Judge at Rainy River, or at a place like Le Pas, away up north somewhere, is not so important, his standing is not so important, or his capacity is not so important as that of a Judge who might be at Ottawa, Hamilton, or even at Peterborough, for example, to become personal.

I urge before you strongly, gentlemen, that that is not correct, that the Judges at these outstanding positions, district positions, are very often better men than the men in Ottawa or Peterborough, and why; because in that respect we are different from the Judges of the High Court; we are isolated; we are alone; we have no opportunity of consultation with anybody else. A Judge in Quebec or Montreal or Vancouver, if any difficulty comes up, has an opportunity of consulting with his brethren on the Bench; he has the advantage of consulting with his brother Judges, and communicating with them. But the Judges of the county and the district courts must act upon their own judgment, often very quickly and promptly, and it is very necessary that wisdom should be exercised by them.

I was thinking about the far-away districts, and I say that they require even better men than other Judges are. Why? Because they have no opportunity of consulting with other Judges, and have not the opportunities for finding things out that we have; in other words, they have no libraries, and they must know what they are doing. A library of any kind at all is not to be found at any of these outlying places. I venture to suggest that if greater salaries were paid we might afford to establish a library. I have a good library myself, but the Judges in Fort Frances and these other far-away places have no library of any kind. They must make up their minds quickly and briefly, and they have to be men of very outstanding character as well as of judicial wisdom. That being so, I suggest that very good men should be appointed, and are appointed, and that they should be given an opportunity of living as they should live.

We found ourselves almost in despair. We found that the outgoings were more than the incomings, and has been applicable I think to nearly all the Judges, under existing conditions, without being at all extravagant as well.

What is the result, hon. lady and gentlemen? I take it this way, that when you appoint a Judge you expect him to stay in his position, and when a Judge is appointed he is less valuable then than he is some years after he is appointed, because, in addition to his legal erudition he has had experience and the wisdom that necessarily accumulates with experience in his position.

But what do we find? Within the last two weeks, in Ontario I find two instances of the failure of judicial positions to hold judges. I find within the past week that one judge has resigned his position, after an experience of I do not know how many years, to take a position on the Liquor Control Board of Ontario. There is more money, of course, but do you think that should be done? Whether it is a position of greater dignity or importance is not for me to say.

There is another case which has come out very prominently within the past couple of weeks. A very great friend of mine, His Honour Judge Gauld, during the past two weeks resigned his position to accept a position in the gift of some old clients of his. He told me long ago that it had been offered to him time and again but that he did not see fit to change his position and leave the Bench and take the post that was offered to him. However, he finally has done so. Why? There is only one reason, that is, that he was offered two or

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three times the amount of money you were paying him. He was a most valuable servant to the country; I speak not only from my own knowledge, but this, that the moment he resigned the press of Hamilton was all on fire protesting against it. It was taken up by the press in Western Ontario; whether it extended farther than that or not, I do not know. The loss the judiciary met with in the resignation of Judge Gauld was trumpeted far and wide, and it was a general subject of discussion.

Now, gentlemen, I venture to say this, that if Judge Gauld had been in the employ of one of the corporations of this country at a salary of \$5,000, and one of these corporations of this country had known that he was being offered a salary of \$10,000, \$12,000 or \$15,000, do you think the corporation employing him would let him go? I say no. They would have been very foolish if they did. There we have one of the best men on the district or county Bench, or any Bench, and I do not hesitate to say that one of the best men in this country has resigned, voluntarily, not because he wanted to, but on account of the force of circumstances, that you were not paying him as much as other people thought he was worth or as much as he actually was worth.

Now I do not wish to trespass on your time, but, gentlemen, I would like to say something further with reference to the work that the county judges do. As most of you know, we are not only judges of the County Court, which includes all the lesser courts, but we are, in Ontario, local judges of the Supreme Court. I am not now speaking of the other provinces, but in Ontario we are local judges of the Supreme Court and there are very many things that come before us exclusively, that can come before no one else. For example, some people have said these courts are inferior courts. They are in one sense of the word, but in another sense they are not at all inferior. There are some matters that must come exclusively before us, involving many thousands of dollars. For instance, all mechanics' liens and everything of that kind in our different countries must come before us and cannot come before anyone else. Every judge is known not only as a local judge of the Supreme Court, but he is also local Master of the High Court, and there are all sorts of matters, involving immense sums, that come before him exclusively for arrangement. Leaving these special things out of the count altogether, apart from the jurisdiction in the different provinces is different. I quite know that, and you gentlemen will all appreciate that, but I am speaking with reference to Ontario where the jurisdiction is \$800 except by consent. There is a provision in the Statute and the Rules of the Courts of Ontario to this effect, that if a writ is issued in a County Court, it may be for a million of dollars and if that jurisdiction is not disputed by the other side, it goes on to trial in that court, and the court is given equal jurisdiction with that of any other court. The result of that, gentlemen, is this: that in most districts, I think, the local judge has the confidence of the public and of the Bar, and instead of putting those cases down on a list for the High Court judge to try when he comes, and where there is necessarily waiting for one case to be tried until the other cases are through, they come before the local judge and get an appointment for a certain day, and then they go on and have the case tried with no waiting, the witnesses all there and no delay whatever. This practice is being more and more utilized in the province of Ontario. I do not know the number, and I suppose that would be very difficult to obtain, but a very great proportion of the cases in which the writs are issued in the County Court, notwithstanding the distinction in jurisdiction, are tried in that way. Now one result of that is this, and I am not making any comparison of counties, the day before yesterday in the city of Peterboro was the date set for the Assizes for that city and county, and a judge from Toronto was to come to hear the cases set down. What was the result? There was not a single case set down. Every case, civil and criminal, had been disposed of otherwise. There are only two or three criminal

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charges, as you know, which the County Court judges have not jurisdiction to try, but under these conditions there are no civil cases that they cannot take. That is under the conditions that I have indicated a very large proportion, very much the greater proportion of the cases in all the places are taken by these judges.

That is not the matter, however, that I wish chiefly to emphasize. Rather it is this: assuming that all that I have indicated is not correct, and assuming that the jurisdiction of these judges, or of these courts were limited to the \$500 or \$800 or \$1,000, whatever it may be, or suppose it was limited to \$100, I do not care; I ask you is it not just as necessary that there should be as good a judge, as competent, as learned, and as wise a judge to try the poor man's case for \$500 as the rich man's case for \$5000? I submit to you that the poor man is just as entitled to the proper and best administration of justice as the rich man, and whether he is in Fort Frances, Toronto or Montreal or anywhere else, he is entitled to the Briton's privilege of having the very best that can be given to him. And for that reason, if for no other, assuming that no other of these special conditions or circumstances originated, I would suggest that it is most wise that the very best men should be appointed for all these positions, and if you appoint the very best men, then you should grant them salaries commensurate with their duties, their abilities and their experience.

Now, gentlemen, I am afraid I am trespassing on your time, for there are several others to speak, and I wish to introduce the matter only generally and broadly and I am not going to say more about it except just one thing, and then I shall stop. It is suggested that in some of the smaller counties not very many cases are tried; not so many as in the larger counties. Of course not. The large number of cases and probably the more important cases are tried in the larger centres, in the cities of varying size. There can be no question of that at all. But, gentlemen, I want to say this to you, that if the judges in these smaller centres do not do an equal amount of work, it is not their fault. They are put there by you to do the work that is set before them. And I want to point out this to you, that some of these gentlemen in the outlying districts and in the smaller counties,—their time is all given to you and the public service; their time is devoted to you. They have to go here, there and all over, and do not for one moment think or run away with the idea that the man who tries the largest number of cases does the greatest amount of work or is the most valuable. I try more cases in Peterboro than some other gentlemen in smaller centres. I am not suggesting for one moment that my time is more valuable or that my services should be better recompensed than his. For this reason: I can sit in the court house in Peterboro and hear a dozen or twenty small cases in a day, or do the best I can with the larger ones. When I go to some of the places outside I have to drive 20, 30, 40 or 50 miles. But that is nothing. Some of the other gentlemen have to drive 100 miles and when they get to the place of trial there may be only one or two cases; people will say, all he does is to try one or two cases, forgetting that he has spent days in getting there, and has suffered great inconvenience, annoyance and physical discomfort as well. So that you cannot take into consideration at all, I would suggest, the fact of the number of cases the man tries, but you have put him there to do certain work and if he has not enough work, it is your fault; not the fault of the Parliament of Canada, but the fault of the province too. I am a very strong admirer of the system in Quebec, where they have judges and send them all over the different districts. However, that is not a question for me or even for you I suppose, as to whether the other provinces should adopt anything like that; but I do want to put in a word for the man say at Rainy River, the man at Cochrane, the man at Temiskaming, the man at Manitoulin. The judge there told me he drove for two days over snowbanks to the place where he was to

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old court, and two days to get back. He had only one case to try, but is that is fault? He would rather have stayed in a comfortable courtroom and tried hundred cases than drive that distance for a very few cases. I would, and am sure you would.

Now, lady and gentlemen, I thank you for your hearing. I have not elaborated our request, because you have it before you. It was with the greatest diffidence and hesitation that we thought ourselves almost bound to present our claims before you. We do it not only knowing the justice of our claims, but the fairness and equity of you gentlemen, and of Parliament, whose appointees you are. We ask you to consider not only what is heard to-day, but the representations made and we ask you to do—as I know you will—everything possible to make the hard or the unlucky lot of some of the unfortunate gentlemen who are trying, and trying their best, gentlemen, conscientiously to administer British justice to Britons in a way that will not disgrace the scutcheon of Canada and of the Motherland as well. We have the unenviable notoriety to-day in Canada that you pay your judges less than in any other British possessions, in any other part of the great British Commonwealth of Nations; and I think I am correct in saying this, that you pay a smaller salary to your judges than any other country on the face of the earth where the English language is spoken. I am not so sure of that, but I know most of the Dominions pay higher salaries. I am not sure as to every one, so I make that qualification that I am not sure; but you do pay less salaries than any other, even of the Crown Colonies of the Empire.

I thank you, Mr. Chairman and gentlemen, for your courtesy, your kindly and patient hearing. I may say further, that if there is anything in which I can assist the Committee, in answer to a question, or to a written question, I shall be very glad indeed to render any possible assistance that I can to you in the performance of your duties.

By Mr. Sanderson:

Your Honour, for my own information, I would like to know whether, in addition to the \$5,000 salary, there are Surrogate Court fees and what they average?—A. I will be very glad indeed to answer you, Mr. Sanderson. Most of the provinces, I think, do pay something. I understand that some of the provinces pay nothing. The province of Ontario pays \$1,000 a year. Municipal and elementary bodies sometimes do, they have given with one hand and taken away with the other. In the year 1919 a very satisfactory amendment to the law was made in the province of Ontario, in order to remedy the circumstances I have spoken of, where there is sometimes a judge in a small county, as you know, there is local pride in all the counties. If you attempt to take away their county judge or their courthouse, they are up in arms, and no wonder. How small the community may be. The province of Ontario introduced a system of districts, by putting two or more counties together in one district, so that the judges could join in their work, and rotate in their work as far as possible. I may refer to the district which includes Northumberland county, during the past two or three years, two judges have died there, so that during the whole of the time there was an invalid or dying judge, I did the work, as best I could, in the three counties. At that time the province of Ontario allowed certain fees for certain work that was done. Surrogate fees and the matter I spoke of, mechanics' liens, and local Master's work, and that kind of thing. But as one fell swoop they struck that all out. Some of us were making a notable addition to our salaries out of it. They struck that out and said all fees were abolished, and they now give a lump or net sum of \$1,000 in the province of Ontario, and other provinces differ.

Q. That is in addition to the \$5,000?—A. Yes. Some of our cities pay different amounts. Judge Coatsworth I think gets about \$2,600. I do not know that for certain; but the minimum fee of a judge of a county, the general fee is \$1,000. In some of the other provinces more is paid. In the Western province some of them give \$1,500. It may be more but I do not know. But unfortunately, I am told that in New Brunswick, I am not sure of Nova Scotia, they give nothing at all.

Q. Just one more question for my information. Is there any opportunity for the County Court judges to serve on arbitrations or commissions?—A. Not on commissions. I have served on arbitrations. About two years ago, I was asked to serve on an arbitration between the city of Oshawa and the county of Ontario. I forget what I received for that, but it did not make me rich. It is all right for a County Court judge to serve on arbitrations.

By Mr. Bell (Hamilton West):

Q. In connection with that thousand dollars, who receives it?—A. That is given to the senior judge in connection with Surrogate work.

By Mr. Ladner:

Q. Do you say that every senior County Court judge receives the extra thousand dollars?—A. Yes.

Q. What about the junior County Court judges?—A. I do not think they get it. They do in Toronto but not outside.

By Mr. Boys:

Q. They do as a matter of fact in some of the outside places. I know they do in the County I come from.

Q. I happen to know about that. Mr. Boys comes from one of the largest and best counties. It is true that the junior judge would get up to \$666.

By Miss Macphail:

Q. You do not consider then that \$6,000 will enable a person to reach a cultural level?—A. Well, I would not like to say that. We endeavour to reach some cultural level. I mean to say that with things as they are now, a judge living outside, with a family, who wants to send his children to the university, his daughters to a ladies' school, cannot do that on his present salary.

Q. Of course, that is usually the desire of every citizen, to obtain the highest and best they can for their children?—A. Well, I think they should.

Q. Do you think that all citizens who want a higher education should be able to get it?—A. Well, if it is possible for them to obtain it.

Q. But, they cannot all get it?—A. No, I think not, I quite agree with you.

Q. I think you used those words, that you are giving more than you are getting. Well, that is a very fine thing. There are many other people doing that too, don't you think. What about a Minister of the Gospel, do you not think that he should receive more than he is getting?—A. Yes, I really think he should.

Q. I do not personally know of any Minister who is receiving \$7,000 a year, yet I know that they have to receive as much learning, or as much education as members of the Bench, and their value to humanity is just as great?—A. Possibly.

Q. I do not hold the law in as much awe as I once did?—A. It is not the desire that you should hold us in awe.

Q. I think there is a disposition in Canada to-day, certainly amongst the legal fraternity in Parliament, to talk a great deal about the majesty of the law. I think you made the statement about standing for justice in the country, and you associated the two words, "law" and "justice." From some observations

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have made, of cases in Grey County, I am not sure if people do hold the law, or the administration of justice in such high regard?—A. Well, that is most unfortunate, because the supreme effort of the law, and of the judges is to administer law and justice.

Hon. Mr. LAPOINTE: What substitute would you suggest?

Miss MCPHAIL: Less law and more justice.

WITNESS: Well, of course, the aim has been for the past thousand years to deal out justice, and we are endeavouring to follow on according to the lines laid down.

His Honour JUDGE L. ST. G. STUBBS, called.

WITNESS: Mr. Chairman, Hon. the Minister of Justice, and members of the Committee, may I first thank you also for the courtesy extended to us, and the opportunity to come here, to present to you our case. May I state that we do not come here to press any special case of our special Bench only.

The position taken by the County and District Court Judges is that all judicial salaries are inadequate. We ask for an upward revision of all judicial salaries, but more particularly our own, as we are the lowest paid judges in Canada, and, of course, the changed conditions of recent years, fall most severely upon us from that very fact that we are the poorest paid judges. The dollar has exactly the same value for us as it has for any other judge, or for any other man. We do not get any more out of it than any one else, and owing to the increased cost of living, and the decreased value of money, the economic fact is that the judges of Canada, of all of the courts of Canada, are poorer paid to-day than they ever were in the history of Canada.

I intend to be brief. As you already know, I am the author of the memorial which was prepared and signed by every County Court and District Court Judge of Canada, with one exception, an old gentleman who was about to retire, and I am informed that every member of the House of Commons has had given to him, or to her, a copy of that memorial,—the memorial presented by the County and District Court Judges to the Cabinet last January. That is my case. That is the case of the whole Bench for which I speak.

After returning home from the interview with the Cabinet in January, I prepared a report which I sent to my constituents, that is, the County Court Judges of Manitoba who had sent me down. That contained somewhat of an elaboration of the memorial. I also had that report printed, and I mailed a copy to every member of Parliament, so that you have my case. I do not know whether you read it or not, or whether you consigned it to the waste-paper basket.

Miss MCPHAIL: I have it here.

WITNESS: If any of you destroyed your copies, and would like another, I shall be very pleased to give you an extra copy. However, that contains all that I can say, and, as I have already said so much, I intend to be brief to allow my brother judges to express thanks for having had an opportunity of saying as much as I have said.

There are two main submissions which our Bench makes.

Mr. LADNER: May I suggest, before entering into that, why not file as part of your case, the memorial which was submitted, so that we will have it on record.

WITNESS: I shall be very pleased to do so.

The CHAIRMAN: If that is the wish of the Committee.

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Mr. LADNER: It is just for the sake of the record, because it will go out to the public.

WITNESS: As I say, I shall be very pleased to do so.

His Honour Judge HUYCKE: Those have all been filed with the Department of Justice, and signed by every judge with the exception of Judge MacBeth of London, who is retiring within a few months.

The CHAIRMAN: Is it the wish of this Committee, that this memorial should be read into the record? It could be added as an addenda to the proceedings to-day, as addenda No. 1.

Carried.

WITNESS: As I was about to say, we make two main submissions. We submit that the least salary the Dominion Government should pay to any of its judges is \$9,000, it does not matter where he lives, and irrespective of where he lives, irrespective of the work he does. We say that the position, the important position, the honour and dignity and responsibility of the position requires a less salary for him to live as a judge should live, it does not matter where he is living. He is the judge, and he represents the Crown in so far as the administration of justice is concerned, and he ought to be paid a sum reasonable and in accordance with and in proportion to the honour, dignity and responsibility of his position.

Then, we say further, we have no quarrel with the Superior Court judges none whatever. But we say that whatever salary they be paid, we should be paid three-fourths. I think that there is at present too great a disparity, an unjustifiable disparity. We are all judges. They occupy, of course, the higher position and more important office. But we say that there is too great a disparity between the present salaries paid, namely, \$9,000 to them, and \$5,000 to us, and we suggest that the proper proportion between these respective Courts should be as three to four. The more you pay them, the better for us, but those are two important submissions. I have dealt with them in the memorial. I have dealt with them in my report, and having done so, that is all before you.

I do not wish to take up any more of your time, because in doing so I shall only be trespassing upon the time of my brother judges, who, as I have said before, have not had an opportunity to express themselves, as fully as I have done.

I shall be very glad indeed to answer any questions that any member of the Committee may wish to ask.

By Mr. Ladner:

Q. Your Honour, Judge Huycke remarked with regard to the cost of living that in a large city like Toronto, the cost was very much more than in the suburban districts. Do you make any differentiation in the suggestion with regard to salaries on that basis as between city judges, and the ones having less expense?—A. I do not make any suggestion or differentiation at all. I ask for uniformity of salaries for all judges with equal jurisdiction. Personally, I think a great deal of nonsense has been talked about the very extensive cost of living in the cities as compared with the country. I have dealt with that in my report. Speaking only for Manitoba—I cannot speak of the other provinces—I do not know the conditions in Manitoba, because I have lived both in the city and in the country in Manitoba. As a judge, I have lived and practiced in both the city and the country, and I know that I can live cheaper in Winnipeg than out in the country. Everything that I required was more difficult of purchase, with the exception of a few articles such as vegetables and the like. Further on that point, I would sooner be a judge in Winnipeg, circumstanced as I am, on a salary of \$5,000 upon which I could only exist, and am only existing, not living as my position should require me.

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live, than have \$10,000 in any country point, because I cannot give my children—I have seven of them—the proper educational facilities which I think I have a right to give them. I could not afford to send them away, and give them a university education. I have two at the university now. What could be the good of my living out in a country point having to send children away. I think the judges in some of the country districts should be given bonus for having to live there.

By Mr. Carmichael:

Q. May I ask you what extra fees are paid by the province of Manitoba?

The CHAIRMAN: I was going to suggest that perhaps Judge Stubbs could prepare a statement showing the fees which the judges receive from the provinces, starting with the province of British Columbia, and proceeding eastward, covering all the provinces.

WITNESS: I will do that for you, if you wish. In reply to your specific question, the County Court Judges in Manitoba are also Surrogate Court judges, not all of them. In Winnipeg there are four County Court judges. I am the senior. The senior judge in Winnipeg is the Surrogate Court judge. In the outside districts, and there are six of them, the County Court judge is in each case, the Surrogate Court judge. In Winnipeg, the senior judge, the Surrogate Court Judge, is paid \$2,500. The outside men are paid \$1,500. Those are practically all the outside fees. There are a few little fees under the Statutes, three dollars for certifying the voters' list of the municipality, and that sort of thing, but all put together, are not worth talking about.

The CHAIRMAN: Perhaps Judge Stubbs could prepare that statement comprehensively, showing how each of the provinces pay the County Court Judges, or the Superior Court Judges.

WITNESS: In the Maritime provinces they get nothing for it.

By Mr. Duff:

Q. They get their fees?—A. The County Court judges do not.

Q. They do in Nova Scotia?—A. The County Court judges do?

Q. Yes, they get the fees.

The CHAIRMAN: Perhaps the judge could prepare such a statement.

WITNESS: Yes, that could be done.

The CHAIRMAN: And that perhaps could be read into the record.

Mr. BELL (Hamilton West): Did I understand you to say that in Manitoba you get \$5,000 from the Federal Government, and \$2,500 from the Provincial Government?

WITNESS: Yes.

By Mr. Bell:

Q. When were you appointed a County Court Judge?—A. In 1922. I was the first appointee of the King Government.

The CHAIRMAN: Are there any questions which members of the Committee would like to ask of Judge Stubbs?

Miss MACPHAIL: I would like to know where the rest of the people get off at. Judge Stubbs says that judges cannot exist on what they are getting; I resent the statements that have been made. I am not investing any divinity in the judges. I want them to have a decent standard of living. I want them to represent the law in a way that is worthy of British justice, but I feel it is going too far to say that \$7,500 does not enable a family to exist, or to more than exist. And again let me say it is not only judges who want edu-

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cational advantages for their children. I think it would be unfair in the Committee to let that statement go again. We all want those things.

Mr. LADNER: If Miss Macphail will allow me, I had some observations I wanted to make along the same lines, but there are a number of judges present who want to give evidence. When we receive that evidence, then we can argue the merits or demerits of their contention.

Miss McPHAIL: I will repeat that.

The CHAIRMAN: Perhaps you will confine yourself to questions then.

By Miss Macphail:

Q. Well, then, you used the words "as a judge should live." Do you think a judge should live any different from any other citizen who wishes to live in the highest and best way?—A. Well, society tradition compels us to take a certain position in society just the same as it requires a Cabinet Minister to do, and I say that of the two classes of people in Canada who are the poorest paid, taking into consideration the standard of living that they have to keep up, those two are, the Cabinet Ministers of Canada, and the judges of Canada.

Mr. DUFF: What about the Members of Parliament? It cost me more money to get my job than the judges.

The CHAIRMAN: I do not think this Committee was constituted for the purpose of inquiring into the cost of elections.

The WITNESS: Well, my answer to Miss Macphail is: if we are compelled to do it—I frankly admit I cannot live up to that standard which society demands of my position on my present salary.

His Honour JUDGE HUYCKE: The next gentleman I will call is His Honour Judge Constantineau.

His Honour JUDGE A. CONSTANTINEAU, Ottawa, called.

The WITNESS: Mr. Chairman, the Hon. the Minister of Justice and hon. members, I thank you very much for inviting me here to present the views of the County Court judges. I consider it a great honour to address this Committee of the House of Commons. I believe it is the nearest I will ever get to the House of Commons.

The lady member of the committee put a question to my friend Judge Stubbs a moment ago, perhaps that I could answer by reading a quotation from the *London Evening Standard*. It is headed as follows (Reading):

The London Evening Standard and British Judges

There is a move in England to increase the salaries of English Judges whose salaries were fixed in 1832. Upon the subject, *The London Evening Standard* says:—

We must not forget, of course, that our economic system does not permit of every man being paid according to his deserts. . . .

But the position of the judges is a peculiar one. As, when they are performing their judicial functions, they are the direct representatives of the King, a special dignity is forced upon them which must affect all their lives. That dignity is in part no doubt its own reward. But it entails responsibilities which must be sustained. A judge could not, if he would, live even his private life in an appearance of poverty.

That was the principle followed in 1832, when these salaries were fixed at what was then a very handsome level. Times have changed, and with them the cost of living, but the emoluments of the Bench are still what they were.

[Judge A. Constantineau.]

I think that explains, to a certain extent, at least the position of the judges in the British Empire.

Another point that was raised at the very beginning here, before any judge was called, was in connection with the cost of living to-day as compared with the cost of living in 1913, and a certain hon. gentleman furnished some figures. In considering those figures, certain things should be taken into consideration. The index number is, to a certain degree, very deceptive, because it takes an article at a certain time, and then follows it up. Let me illustrate: An article which costs 50 cents in 1913, to-day it costs a dollar. The index figures say the cost of living has increased one hundred per cent, but what the index number does not take into account is the change in the standard of living. For instance, a piece of dress-goods cost 50 cents in 1913, and it costs to-day one dollar, the index number will tell you that to buy a dress for a lady, it costs exactly twice as much. That is one hundred per cent. That is quite incorrect. The lady that is willing to wear fifty cent dress goods in 1913, we will say, to-day wants dress goods valued at three dollars, four dollars, five dollars or six dollars a yard.

Mr. CARMICHAEL: But she only buys one-fifth of the goods.

The WITNESS: Well, I leave that to you.

A few years ago there were no good roads. There were no automobiles, there were no telephones, there were no radios, and many other things that have been invented by scientists, which to-day are considered practically necessities. Gentlemen, I believe that to-day there is one car for every nine people in Canada, that is, a car for every two families. There would be nothing extraordinary in a judge having a car, but how many judges in this country can afford to have a car. I do not think there are twenty judges in this country who have cars. Why? Because they are too poor, they cannot afford them. That is the reason.

Mr. BELL (Hamilton West): There are only two judges in Toronto who cannot afford it.

WITNESS: As I say, there would be nothing extravagant in a judge having a car, or nothing extraordinary. In the county in which I live, there are many farmers to-day who have two cars. They have a McLaughlin or a Studebaker, for Sunday, and for state occasions, and they have a Ford for every day use. Surely there would be nothing extraordinary about a judge having a moderately priced car. To show you what the public expect of a judge, there was in my county, not very long ago, a judge who had a car, and, of course, he could not afford anything better than a Ford. Well, I have heard with my own ears, I do not know how many people criticize that judge for driving a Ford car. They thought it was unbecoming.

Mr. DUFF: He was a wise judge.

WITNESS: Well, he may have been. Anyway, they considered it was beneath the dignity of a judge to drive a Ford car. They thought that he should drive one of the best cars, a car worth \$2,000 or \$3,000.

I intend to touch on a few subjects. As to the number of judges, it has been said sometimes that the number has increased since Confederation. When these four provinces were federated, there were only two provinces that had County Court judges. At that time New Brunswick had five county court judges, to-day it has six. Ontario had forty County Court judges; to-day it has sixty-four; a difference of twenty-four. Nine of those judges have to disappear by virtue of the Act of 1919. Compare the population of the province of Ontario to-day, compare the commerce of the province; compare the cities with what they were in 1867, do you think that that increase, even if it is an increase of 24, is very great in the face of all those things?

[Judge A. Constantineau.]

As I have just said, the Act of 1919 provided that there shall not be junior judges in the province except in three or four places, large centres, already eleven have disappeared. Nine more are to disappear, and when time comes when the County Court Judiciary of Ontario is reduced to at fifty-five or fifty-six judges, I cannot see how it can be reduced any further.

We have followed in this country the American scale of salaries. We very loyal, at least we claim we are, to Great Britain, but whenever it costs a dollar, we look along the American line to see if we cannot save a few dollars. We are the only colony in the whole of the British Empire that has adopted the American scale of salaries with the possible exception of Newfoundland. All the others have adopted the British scale of salaries. I do not mean to say that they pay as much as Great Britain pays. I do not mean to say that they pay \$25,000, \$17,500, \$15,000 and so on, but in the main, they have adopted the scale of salaries prevailing in Great Britain.

Some hon. member said he could not understand why if an ordinary citizen could live on a certain amount, a judge could not live on the same amount. The dignity of the office is not taken into consideration, then possibly there should not be any difference, but we are very proud of British traditions. I think that what Great Britain does is generally pretty correct, and if there is anything in Great Britain that is considered a great asset, it is the administration of justice. They are surrounded with all the respect that is possible. And I may say this: the Government may be weak, the executive may be weak, but if the judiciary is what it should be, there is nothing to be apprehensive about. However, the Government may be the best in the country, and the executive may be the strongest possible, but if the judiciary is weak, then there is danger of revolution, a danger of social evil, and we do not have to go very far to-day to see an example of this. I cannot mention any country, but if we read the newspapers, read the editorials that are written on the subject, then we know the deplorable condition of their administration of justice.

As I say, we have followed the American scale of salaries, and disregarded that of the British. The Americans, after experimenting for 150 years, have discovered that it was a mistake to pay their judiciary that which they have been paying, and they are increasing the salaries all over the United States to-day. If Canada refuses to increase the salaries of her judges, it will stand alone among all the English-speaking countries of the world.

It has also been said that the County judges are asking too much; that they want to jump from \$5,000 to \$9,000. Just let me give you a short historical sketch showing the way that the County Court judges have been treated in the past. In 1867, at the time of Confederation, there were in Ontario fifteen County Court judges receiving \$2,600 a year, and, gentlemen, I beg to state that \$2,600 in those days was practically a fortune. The other judges were receiving a little less. In New Brunswick, the chief justice was paid \$2,800 a year. The Puisne judges were paid \$2,400 and the County Court judges were paid \$2,000.

In 1873, by an Act, the preamble of which begins thus: "Whereas owing to the increased cost of living consequent upon the diminished value of money, it is expedient . . . to increase the salaries . . ." and so on, the Superior Court judges were increased to \$5,000 and the County Court judges were decreased to \$2,400. So that the only logical way of considering that Act is this, that Sir John A. Macdonald's Cabinet must have come to the conclusion at that date that the cost of living had increased for everybody, with the exception of County Court judges, and had decreased for them. That is the only logical way of looking at the Act.

The judges in those days—in 1867 and a little after—were receiving from the provinces emoluments. However, in Ontario, the Superior Court judges were [Judge A. Constantineau.]

giving nothing. They were receiving the bare \$4,000, and the County Court judges were receiving emoluments. In some of the larger centres of Ontario, County Court judges and the Superior Court judges must have been nearly a level.

Later on, in 1881, the County Court judges of Ontario were made local judges of the Supreme Court, with equal jurisdiction in many matters to that of the Supreme Court judges. MacDonald of Pictou—I do not know whether he is Minister of Justice or not—introduced a Bill to increase the salaries of County Court judges. For some reason or other, they decided to consider the matter at the next session. Well, the next session came in 1905, twenty-four years afterwards, and the Superior Court judges then were given \$2,000 more and a bone was thrown to the County Court Bench in the shape of \$600.

In 1893, Sir Oliver Mowat passed some legislation in Toronto granting the Superior Court judges \$1,000, and immediately Sir John A. Macdonald objected to that, saying that he had no right to vote that because he was undertaking to partly pay the judges. However, as the legislation was conditional, and as at \$1,000 was to be paid only until the salaries were increased at Ottawa, Sir John A. Macdonald allowed it to go.

So that you see, from 1867 to 1905, a period of 38 years, the Superior Court judges of this province were increased from \$4,000 to \$8,000, and during that same period, the County Court judges received an increase of \$400—that is, an increase of \$100 for every \$1,000 paid to the Superior Court judges of this province. Later on, in 1920, we got another thousand dollars. So that at Confederation our salary was about two-thirds of the other judges. If we take into account the emoluments that we were receiving, it was more than three-fourths, I believe, of what the Superior Court judges were receiving. Why were the County Court judges neglected so much in that period? I cannot account for it, gentlemen. Possibly I can give you one reason. As you know, the province of Quebec has no County Court judges. There are sixty-five members here. They certainly were not opposed to County Court judges, because I may say Quebec is one of the most generous provinces we have in Canada. But they were not interested in County Court judges, and if the English-speaking provinces did not move to increase the salaries of their judges, the province of Quebec certainly was not going to move and say, "Why do you not ask more for your County Court judges?" That is only a surmise, of course, but I think it is well-founded.

Just one thing more, and I am through. I have heard it said, not here, but elsewhere, "Well, you want three-fourths of the salary of the Superior Court judges; that is not the proportion that prevails in some of the colonies of England." Well, let me say, first, that a County Court judge in England does not correspond at all with a County Court judge in Ontario, or any other province of this Dominion. The County Court judge in this country is a judge with some Superior Court jurisdiction. It is wrong to call him a County Court judge. He should be called a local judge. He presides at many courts. He is an appeal court. He acts as local master, and he has a good many other duties. The position of County Court judge in Canada is comparable in many respects to the position occupied by judges on the other side, in the American Union, and here some of those judges are called Superior Court judges, with limited jurisdiction. That is their title.

There is a difference between a generous salary and a living allowance. If the Government chooses to be generous towards the Superior Court judges, as the British Government has been in the past, then the County Court judges have nothing to say. In fact, there is scriptural sanction for it, as follows: "Those that came at the eleventh hour were paid the same wage as those that came in the morning."

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Mr. CARMICHAEL: They only got a penny, though.

WITNESS: Yes, but in those days that was a big salary. You must remember, gentlemen, that we in Canada have not reached the generous stage yet. Supposing a corporation employs a foreman, and gives to that foreman only what is necessary for him to live, and keep his family, they ought to pay to every workman, to every mechanic, to every labourer, no matter how humble his duties may be, as much as they are paying to that foreman, for the simple reason that they are only paying a living salary to that foreman; and I say, there should be no distinction made between the Chief Justice of Canada and the humblest judge in this country, if the salary of the former is only a living allowance. The moment, though, that you establish a minimum living salary, we will say, of \$9,000 for a judge, then from that point up, I say you should make a distinction between the salaries according to the dignity and importance of the office.

The Superior Court judges, as a rule, only come once or twice a year to our county town. They are not seen by the people, or at least very little, and therefore, they cannot exercise a very great influence over the people. I have nothing to say against the Superior Court judges. In fact, we would only be too glad to see them get bigger salaries, and we hope that this Government will grant increases to them. I do not want to disparage them in any way. When I went to college, I studied the art of speaking. I do not know that I have profited very much by it. However, I was told that when a clergyman was praising his saint, he should not do it at the expense of another saint; or depreciate the other saint.

Gentlemen, I have profound confidence in the sanctity of the County Court Bench, and I equally believe in the sanctity of the Superior Court Bench. I think it is manned by holy men, and that they are giving great service. I believe we are all holy. But coming back to my subject, I say that the County Court judges are the embodiment and personification of justice in our counties, in our districts. Everybody knows that we have to maintain a certain decorum, a certain standard of living, not only on our own personal account, but on account of the administration of justice, and on account of the respect that should be paid to those who are administering justice. I think that we should be able to live with becoming decency. But, we cannot do it just now on the salaries that are paid, no matter what may be said about it. Of course, it is said that other people live on less. I grant you that. I am told that in some of the mining districts of England lots of miners live on very much less than is paid to the Lord Chancellor, or very much less than is paid the Chief Justice, or to a Puisne judge. But, these miners are not judges; they do not represent His Majesty; I speak of miners, but, of course, that may truly be said of other classes of people. The salaries should not be so much paid to the individual. It may be that John Smith is appointed judge, a man whom we all know very well, and prior to being appointed a judge, he may have lived in rather humble circumstances, but the moment he becomes a judge, he becomes the representative of His Majesty, and should be able to live with a dignity that is becoming of him and his position. It is not only in his interests, it is also in the interest of the public that he should do so. That is what has been done for centuries in England, and I truly believe that if we follow the British traditions in this respect, we cannot go very far astray. I would say this in conclusion, that if the British Parliament, the British form of government, were to disappear from the face of the earth to-day, then future generations, possibly a thousand or two thousand years from now, will care very little about naval victories, or about victories on land.

[Judge A. Constantineau.]

By Mr. Duff:

Q. How long have you served your country on the Bench?—A. Twenty-eight years.

Q. Do you live in Ottawa, or out in the county?—A. I live in Ottawa.

Q. You were discussing the matter of automobiles. In addition to the amount paid to you by the Federal Government, do you receive an amount from the Provincial Government?—A. \$1,000.

Q. And what about travelling expenses?—A. Well, we get ten dollars a day.

Q. So that you can use either an automobile, or the train, or any other mode of conveyance?—A. Yes.

Q. What about taxation?—A. Well, we are taxed by the Federal and Provincial Governments both.

Q. Do you pay Federal income tax?—A. Oh, yes. And I may say, perhaps in answer to your question, that all judges in Ontario, now receive the \$1,000 a year, the only exceptions are the judges in Toronto.

By Mr. Gershaw:

Q. Are County Court judges often transferred to the Superior Court Bench when appointments are made?—A. In England, there is a principle that once a Puisne Judge, always a Puisne Judge. That principle, according to my understanding, was established long ago, when the Crown had far more influence over the judiciary than it has now, and it was thought at that time that by promoting Puisne judges to the position of Chief Justice the Crown might influence the Puisne judges sometimes, in the cases that came before them. On the principle of promoting a County Court judge to the position of Supreme Court Judge in England, there was never any objection to it. There are very few County Court judges promoted to the Supreme Court. The principle of once a Puisne Judge, always a Puisne Judge, never applied to the County Court.

Hon. Mr. LAPOINTE: It has not been the practice in Canada to promote a County Court judge to the high Court.

WITNESS: There have been five cases, I think.

Mr. BELL (Hamilton West): There is no such case on record.

WITNESS: There are five cases.

Hon. Mr. LAPOINTE: Not in Ontario.

WITNESS: Not in Ontario. A County Court judge of Prince Edward Island became Chief Justice of that Island. Pendergast became a Supreme Court judge. I think he is the Chief Justice now, I think there are five altogether. In Ontario we have never had a promotion.

By Mr. Ladner:

Q. Some of the other judges, as well as yourself, referred to the standards of living, and the position which judges occupy. Have you any data which would indicate the comparison of the remuneration paid to the judges, with that paid, for example, to the managers of banks, commercial businesses, milling companies, grain companies, departmental stores, and wheat pools?—A. Have I any information?

Q. Have you, by any chance, any information along that line?—A. Well, I do know that in business to-day, in commerce, a salary of \$10,000 is considered a very small one; that is, for any man occupying a position of importance. Generally the salary ranges from \$15,000 to \$50,000 and sometimes higher. But no man of responsibility will occupy a position in the commercial world to-day for less than \$10,000 or \$15,000. A few years ago, we had a

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tariff of salaries, and we could get that information. I may say that good stenographers to-day earn \$1,800 a year, and some even \$2,000. They get two-fifths of the salary of a County Court judge, right in Ottawa here.

Mr. LADNER: Just on that point, perhaps the Department of Justice could secure information, for example, as to the salaries of bank managers, managers of insurance companies, and so on.

The CHAIRMAN: The Bureau of Statistics could furnish that.

Mr. LADNER: I think, Mr. Chairman, that that information would be extremely useful in judging the relativity between the remuneration paid to judges, and the remuneration paid to those occupying less important positions.

The CHAIRMAN: Perhaps it would be possible to get a memorandum from the Bureau of Statistics.

WITNESS: Of course, I am speaking of the head office of a bank. There is no institution in the country that pays a smaller salary than a bank.

Judge HUYCKE: I will now take you down to the Atlantic now and would ask Judge Barry, of St. John, New Brunswick, to address you.

His Honour Judge J. A. BARRY called.

WITNESS: Mr. Chairman and hon. members of the Committee, all the ground has already been pretty well covered by the judges who have spoken, but I presume you desire to know exactly why, after all, we feel that it is necessary to receive more than we are receiving.

My full revenue, my full income from every source, is \$5,000. I receive no provincial allowance; I am not a Surrogate Court judge, nor am I a Master in Chancery, or anything of that nature. My full income is \$5,000. Now, then, the next thing that you reasonably require to know is "How do you spend that \$5,000, and why do you come here saying that you require more money?" Well, the first thing that I can tell you is and this is not an argument in the general sense of the term, that I have to spend that \$5,000 to support ten children.

Mr. DUFF: You should have a bonus.

WITNESS: The oldest is fourteen years of age, and the youngest is seven months. There are five girls, and five boys, and among them are twins. I would like very much to be able to educate those girls as school teachers. That is my ambition, because I have a very high regard for that profession. They are segregated from people. They are not open to the general things that pertain in some other positions that they might go into. My father happened to be principal of a school, and it is a profession that I happen to be very much interested in, from the standpoint of young ladies particularly. I may say they are not paid well, they are not paid as they should be; however, they are paid sufficiently to live. There is no university, there is no normal school in the city of St. John. It is in Fredericton. I would have to send them there.

Now, that \$5,000 represents \$416.66 a month. Under those circumstances, I have to carry life insurance. I cannot live in an apartment; I cannot live in a tenement; because no person would take me in any way, if I wanted to. Therefore, I have to live in a house that I bought, but do not own, and the equity is nothing. I have to pay the taxes, and I have to pay interest, and then I have to heat the house. I am speaking frankly to you. I am not coming here with any degree of dignity; I am coming here because "necessity knows no law." I am coming here so that I may be able to show to you gentlemen, that, as far as the judges are concerned, we have got to live with a certain amount of decency. And, you must know that it is going to cost a certain amount of money to bring up a family, and educate them reasonably, as I hope to be able to do, but not on this salary, of course.

[Judge J. A. Barry.]

On the question of dignity, as I look at it, when a man goes on the Bench, he must make up his mind that he is going to be more or less segregated from the rest of the people. He cannot be familiar with them. He cannot discharge the duties of his office right if he patronizes and goes around with people as a general rule. It does not mean that he must not respect them, or it does not mean that he must not speak to the labouring man, whom he knew before he was elevated to the Bench, not at all, but he must at all events be segregated from the rest of the people, to a certain extent. I have no social life. I never entertain. I never have anybody come to my home, because I cannot afford it, and because I am satisfied with my own environment. Dignity, after all, consists of this: that the man who is appointed to the Bench must make up his mind that he will do what is right, be absolutely honest in the work that he performs, faithfully and well, that he will not neglect any of the duties that are incumbent upon him, and his mode of living must be above reproach. If he does all that, then, as a matter of course, the people of the community in which he lives, must necessarily come to him with dignity, which after all means confidence and respect for the individual who occupies the office. That is what I understand by dignity; I was not born with a silver or gold spoon in my mouth. I was born amongst the common people. I am one of them, and to-day, as I say to you, I have to carry insurance, and that costs me a lot. It costs me money, as I say, for heat, and light, and interest, and so on, and when you have a large family, you have a lot of sickness. I had one case of sickness two years ago; it is not nice to tell these things, but you, as a Committee are representing this country, and we are coming here asking for an increase in salary, and you are entitled to know these things, and I am prepared to give you the information. It cost me, two years ago, upwards of \$4,000 to save the mother of all those children. I had three nurses for three months. I payed \$90 for nurses alone. Naturally I went back. How am I going to get on my feet. There is the position to-day.

As far as the work is concerned, I get up in the morning at seven o'clock. I go to work at my office at nine o'clock, and I work every day. I have no holidays. There are none prescribed for me, and if there were, they would not be any good to me, because I could not go anywhere. As far as a car is concerned, I paid \$160 for a little Ford coupe, two years ago, in order that I might come from just outside the city limits to St. John. I am not ashamed of it; they say it is a "rattling" good car and it is.

At the time of Confederation, the salary of the Puisné judges was \$2,400, and the salary of the County Court judges was \$2,000, \$400 difference. The salary of a Puisne judge to-day is \$9,000, and the salary of a County Court judge to-day is \$5,000, \$4,000 difference. I do not say that the Supreme Court judges are getting too much, I do not think they are; I think they are entitled to more, but I do know that I have to live just as they have to live. Speaking for myself, I know that as far as the work is concerned, they have to answer to themselves in respect to the work they do. I know that the Statute is so now that I have concurrent jurisdiction with Supreme Court judges, in some matters, irrespective of the amount involved. I know that the speedy trial cases, criminal cases, have meant a lot of extra work to me. As far as the province of New Brunswick is concerned, it seems to be the habit to put all statutory work upon the County Court judge. I have concurrent jurisdiction with Supreme Court judges with respect to all reviews. All these cases that come down to the County Court make it so that there is ample work to be done.

I am not putting up the other side from the standpoint of my particular case, but I do say this: that the Government of this country must be spending considerable money as far as immigration is concerned, I think that, as a matter of policy, taking all the circumstances into consideration, the judges should be given at least a living salary.

[Judge J. A. Barry.]

I will be glad to answer any questions at all. This may be considered an individual case, but it is a case at all events, and from all sources, I tell you my salary is \$5,000.

By Mr. Sanderson:

Q. Does that apply to every County Court judge in the province?—A. Yes.

Q. How long have you been on the Bench?—A. Three years.

Q. And you practiced law in the province of New Brunswick previous to that?—A. Yes.

Q. For how many years?—A. Since 1907.

Q. I hope you will not consider this an impertinent question. What is your age?—A. I will be 45 years of age the 2nd day of August.

By Mr. Boys:

Q. Are you the only judge for the city of St. John?—A. For the city and county of St. John.

Q. What is the population of the city and county?—A. Between seventy five and eighty thousand people, approximately. There is no other allowance at all paid to the judges in the province of New Brunswick.

Q. Is it really essential for you to go to your office at nine o'clock and work until five o'clock or four o'clock?—A. Oh, yes, it is absolutely essential. Take the last regular docket, we had thirteen trials, actual trials, not assessments, trials that occupied a day or two days. I started my court in February.

Q. I understood you to make the statement that to do your work properly it is necessary to get to the office about nine o'clock in the morning, and that you work on till perhaps five o'clock?—A. Yes, the lawyers there look for me every day. There are so many things that I have jurisdiction with respect to. Even in connection with the perfecting of a writ in our province, it is necessary that the judge shall perfect the writ of service. Therefore, every writ that is issued in the city and county of St. John that is not served personally; I have to sign the order in respect to it.

By Mr. Bell (Hamilton)

Q. It seems to follow, from what you have told my friend, Mr. Boys, that with the hours you find it necessary to observe, if you reserve judgment in a case, the work of preparing your judgment must be done at night?—A. No, no. I am not putting it that way. There are certain times, of course, in the day, that I am not engaged, and then, of course, I will be engaged in preparing my judgment. For instance, I had a judgment here, not long ago, of nineteen pages. Well, I could not prepare that in three or four days, I consider it is the duty of every judge to prepare a written judgment. He must look at every case that is cited, and the policy to-day among lawyers is to cite ten and twelve cases, and you have got to read every one of those cases, if you are doing your work right.

By Hon. Mr. Lapointe:

Q. Are you working in the evenings too?—A. No in the evenings, not actually working, no.

By Mr. Carmichael:

Q. How does your salary now, as judge, compare with your average income during the time you practised law, prior to becoming judge?—A. Mr. Skelton, the manager of the Bank of Montreal, when I applied for this position, strongly advised against the application. I told him at that time—I had seven children then—that the practice of law was problematical. He told me then—I think he is general manager now—that I was bringing into the bank upwards of
[Judge J. A. Barry.]

\$3,000, and he said he knew, of course, that there was a certain amount of work at I was making outside, the ordinary retainer here and there that you put your pocket that a bank would not see at all. That is what the manager of the Bank of Montreal, Mr. Skelton, told me.

By Mr. Sanderson:

Q. You went on the Bench, comparatively a young man?—A. Yes. I would say that is the ambition of all lawyers, to be appointed to the Bench.

Mr. BELL (Hamilton): No, no.

WITNESS: If you have seven children, it will be.

By Mr. Duff:

Q. In the province of Nova Scotia there is a statute which provides that when the Surrogate or Probate judges retire or die, the County Court judges do the work, and receive the fees. Do I understand you to say that that statute does not apply in New Brunswick?—A. It does not apply in New Brunswick at all. The Probate Court judge in Saint John, who tries about one case a year, gets about \$3,200 from the province of New Brunswick. He is the superior of the law school there, and he practises besides. I get \$1,800 more, as County Court judge.

By Miss MacPhail:

Q. Do I understand you to say that when you were appointed to the Bench, you accepted the appointment because you thought that having seven children, there was more permanency to it?—A. I thought it would be something that would be established, and that the increases would work out eventually. I always, of course, felt that the increases would come. I knew that the salaries were not as high, or felt that they were not as high as they should be, but that eventually the increases would come.

Q. Judge Barry, do you not think that ten children is rather a luxury to-day?—A. No; I am very glad to have them.

Q. I know that, but until the State assumes responsibility for every child, has it any right to take into account the number of children which any of its subjects should have?—A. I come here, as I view it, asking for an increase of salary, and you say to me, "Why do you want it?" And I am telling you why I want it.

By Mr. Boys:

Q. Would you go so far as to say that the application for an increase is appropriate apart from the question of children?—A. Oh, yes.

Q. That is what I would think. You are not merely basing your claim because you have ten or twelve children?—A. Oh, no. There is no such thing as educating my children on the salary I receive. May I say this, Mr. Chairman, that there are many instances where people do not receive the salaries they should receive, and, as you know, when people cannot pay, they can make an assignment, and they can make a disclosure before me, and when I find they are not in a position to pay, I discharge them, but I cannot discharge myself. We are just in that position, that we have got to pay, otherwise, our efficiency is destroyed.

Judge HUYCKE: I am going to bring part of the West to you. I now present Judge Jackson of Alberta.

His Honour J. A. JACKSON called.

WITNESS: Mr. Chairman and hon. members of the Committee, when I was sitting back there and thinking of the cost of living, I thought of a very fine overcoat that I have. I thought I had at one time the best beaver over-

[Judge J. A. Jackson.]

coat in Western Canada. The moths got into it three or four years ago, but I am still wearing it. I bought it twenty years ago.

MR. SANDERSON: I thought you were going to tell us, judge, that you had to pawn it.

WITNESS: It is unpawnable at the present time. I have been on the Bench for fifteen years. I was very glad that His Honour Judge Constantineau spoiled me of the cost of living. The cost of living does not depend with us on the cost of commodities. When I was practising law, the first year I got married—I had the figures with me in a little book that my wife and I used—it cost me \$200.75 for one year to live outside of my clothing. My wife had enough clothing to go on with. From the 25th day of April to the 31st day of December, it cost us \$160.30 to live. That included one or two trips, and we could buy enough meat for ten cents to keep us going for a little while. And just look at this book. I would say that we must have had a real party when meat cost us thirty-five cents. In those days we could live very high on that amount.

By Mr. Bell (Hamilton West):

Q. You did not have much liquid refreshment?—A. I might say that I drink neither tea nor coffee, and I do not smoke because of the fact that it costs money to do those things. A statement was made to this committee at the beginning that I did not quite understand, that is, that the County and District Court judges of Canada receive pensions after thirty years, and that possibly the Supreme Court judges do not receive pensions. I think myself they have a better pension than we have. I think the statistics will bring that out.

THE CHAIRMAN: There is a full memorandum here with regard to the pensions of judges.

THE WITNESS: In addition to being a County or District Court judge, I am also local judge of the Supreme Court. Master in Chamber, and I do nearly all the work in connection with the Statutes of the province. I have a district situated in the south-west corner of the province of Alberta. It runs down to the Montana boundary, and goes up a matter of 200 miles north. It comprises at least 70,000 square miles. It has a varied population; Canadians, English, Scotch, Irish, all kinds of Americans, Turks, people from India; in fact, we have them from all over the world, a varied population, and it is my duty to administer justice in such a way that the foreigners especially will try to live up to their laws. To give you an example, I have had cases where I thought it was desirous to throw the whole case out and pay no attention to it. Some foreigners would come in with their families, their relations and friends, and acquaintances, into court, and they would have their day in court. I very soon came to the conclusion that these men required their day in Court. They had heard about British justice, and they wanted British justice, and I felt it was my duty to give them as much of my time as any other man coming into court on a case involving a million dollars.

We have certain advantages from living in the country districts. We are not crowded particularly with people meeting us on the streets, and things like that. But, there are other disadvantages. There are advantages to be derived from living in the cities which we do not have. However, we have certain things to do, and a certain work to perform, and in the performance of our duties, we meet with many hardships. I do not complain about my work, but I would like to give you a little example of some of the things that the District Court judge living on the prairie is liable to run across. A year or so ago, I had to take in a court some 75 miles away from our town. My wife accompanied me, as she very often does. We had only one small case, but in order to

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there, under ordinary circumstances by train, we had to take a couple of days. We went by car. When we got down a certain distance, a sand-storm came on, which was the worst in the memory of man in that district, and probably the worst that ever occurred in that district. I got a flat tire, a blow-out, and I had to walk into a small town in order to get it fixed up there. I started home after my work was done. I left there about one o'clock in the afternoon, and got it about six miles, and got another flat-tire, a blow-out, leaving me with three tires. I endeavoured to take that off, and could not in the sand. A little while later, I got another flat tire, another blow-out. That was three of them. We were eleven miles from this little village, with the sand storm at its height. I started to walk back to this village, with the wind at my back. I made the eleven miles in two hours with the help of the wind. The last mile or two I could hardly see; I put my hand up to my eyes in order to protect them, and it had not been that I was on a road at that particular part, I would not have been able to get there. That gives you some idea of some of the hardships that we have to contend with, in connection with our work as County Court judges.

By Mr. Boys:

Q. How many outside courts are there that you have to go to to hold Division Court sittings?—A. I have about ten or twelve outside points.

Q. And you hold how many courts per year?—A. I hold I think it is about twenty-four courts all together, outside of the city.

Q. And about what average distance would you travel in order to hold those courts?—A. We average anywhere from twenty-four miles up to seventy-five miles. I happen to be in the centre of the district.

Q. And can you reach all those places by rail?—A. I have one place where I would have to go through another district, Medicine Hat, 115 miles by rail, then back to Suffield, and back to Retlaw. I do not know how far that is. Mr. Pershaw would know how far that is.

Q. The point I was really coming to is this: In most of those cases would you have to remain away over night, that is, if you only had one or two cases to try?—A. Absolutely. There are places only twenty-four miles away, where I have had to spend two nights away from home.

Q. You have to drive your own car; you could not afford a chauffeur to drive your car?—A. That part is a real joke. There is only one outside district that I know of where, if I went by train, I could do it in one day, and when I only have two hours to do the work in. If it took me longer than two hours to complete the work, I would be away two nights. With every other place, I have to be away at least two nights.

Q. Which would you sooner do; try 2,000 cases in the town in which you live, or 100 cases under the conditions under which you have to operate?—A. Well, as far as that is concerned, I like both. I like the country work. I am a pioneer more or less. I have lived in the Western country for 25 years, and I am like some of the doctors out there who are not afraid to go out into the country, out on the prairies in the middle of the night. As I say, I have been fifteen years on the Bench. I am a little afraid of the next fifteen years in connection with that work, and for the next fifteen years, I think I would prefer to live in the city and work all day long, from nine o'clock in the morning until six at night.

Just a short time ago, it was one Monday morning, I decided I had nothing to do, and thought I would be able to write a private letter. I got to my office at nine o'clock. I got my correspondence, and in it there was a letter from some poor widow inquiring about certain things which required an answer. There were several other letters that took me until about ten o'clock. I wrote two lines of the letter before ten o'clock, and at a quarter to one I had six

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lines of that letter written. I was busy all morning, with people coming in one thing and another, and I had done nothing, I might say, in the way of work of record. But, I had been doing my work as a judge.

As far as our jurisdiction is concerned; we have the work of the judge, the Master in Chambers, and other work to do. And with regard to the point about the appointment of young men, I think it has been policy of the Government up to the present time, or at the present time appoint fairly young men to the position. I do not believe it is good policy to wait until a man is in his decline, before appointing him to the position of judge.

By Mr. Sanderson:

Q. What is your total salary?—A. \$6,000 a year.

Q. Does that include travelling expenses?—A. No. My travelling expenses around \$1,000. I pay out some \$1,200 in connection with my car.

Q. Then your salary would be \$6,000 plus \$1,000?—A. About \$7,000. expense last year with my car was \$667. In addition to that, the loss of value on my car was \$600.

By Hon. Mr. Lapointe:

Q. You are paid \$6 travelling expenses?—A. We get \$6 a day. In addition to that, I have to pay my living expenses when I am away.

Mr. BELL (Hamilton West): Some one said it was ten dollars.

Hon. Mr. LAPOINTE: Ten dollars in the cities, and six dollars in the other places.

By Mr. Totzke:

Q. And your transportation aside from that?—A. Yes. I was at a Committee meeting yesterday, in the Parliament buildings, and I heard the statement made that there were seventy-five experts in one Department who had left the Government because they got higher salaries some place else. I know that to be a fact from certain other quarters, but unfortunately, as judges, we are not in that position. If we do not like the work that we are in, we cannot move from the position we are in. To go back to our old position as lawyers would be almost impossible for a man who has been out of it for fifteen years. Our work is entirely different. Speaking for myself, I would not like to have to go back to the practise of law. I could neither keep my family or anything else. In the first ten years, I practised law, I was able to set aside a little, and I am quite certain, from what I know since, that if I had kept at it, I would have been able to retire, easily.

By Mr. Sanderson:

Q. At what age would you be retired?—A. Sixty-seven.

Q. That is, when the time comes? Then what salary will you get?—A. I hope it will be somewhere about seven or eight thousand dollars, when the increase comes.

Q. But under the present arrangement?—A. Five thousand dollars, I think it would be.

By Mr. Boys:

Q. Under those conditions, when you are compulsorily retired, after being thirty years on the Bench, you would get full allowance pay by the Dominion Government?—A. Yes, but not the other allowance of one thousand dollars. We have, in addition to this work, the granting of naturalization to foreigners and that, to my mind, is a very, very important thing in connection with my work. A great many foreigners come into that country, and they apply for

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naturalization from time to time, practically every month there are applications for naturalization, and I feel, as I say, that that is one of the most important parts of my work. I have endeavoured, in every possible way, to promote the cause of British justice in that country, in an endeavour to establish those men who are trying to become British subjects.

We have got here to find out whether our salaries are adequate or not. Some of the judges here this morning have spoken on the question as to whether they are adequate in comparison with the salaries paid to the judges of other countries. I would like to take up the point as to whether they are adequate for us to live on at the present time. The other day, I was sent a questionnaire by the church to which I belong. I was asked about the improvements of the church. I had to make a certain donation towards those improvements and they wanted to make some further improvements, and my reply was "No." I said that if I was going to make any increase in my subscription, it would be for the purpose of granting an increase in salary to the clergyman of the church. It is a well known fact that our clergymen are absolutely underpaid. There is no question about it. It is a wonder to me how they make things go. They have not the standard of living that we have to have. They have not the same social obligations. I am willing to admit that my wife likes the social life. She likes to bring people in to her house, people who are not in the best of circumstances. For the last two or three years we have had some person in the house. We are trying to help and assist those people, and I do not think we are very much out of the way in so doing. I like a little social life myself. I possibly go out once every two weeks. Other times I have to go to bed early, I might spend a few dollars.

During the last fifteen years, it has cost me, in addition to the salary that I received, at least \$10,000 that I had to take from my assets. I am \$10,000 worse off than I was fifteen years ago. You see, I have some other assets. They have not been assets altogether. To a certain extent, they have been more or less liabilities. For instance, last year I had several farms, I made some money when I was practising law, I think, legitimately, and I had hopes that with the income received from those farms I would be able to live comfortably as a judge. This was my experience last year. I had about 2,000 acres in a sort of an arc in northern Alberta. The crop was coming along fine. I said, "this is my year." I only get a third of the crop. However, a nice little hailstorm came along on the fifth of July, with a tornado, and it just cleaned up the whole thing, cleaned everything as clean as a whistle. And just a few days before that our house burned down. That was my income last year from my land. I had sold some land during the last few years, but it came back and was left on my hands. As a matter of fact, I had to pay some money out on it.

I have gone into the question of living, as to what it should cost a judge to live on. I am not going to give you the figures unless you want them. I have the figures here, however, of what it did cost me to live last year. It cost me a great deal more to live last year than I possibly should have paid out. One judge has stated that it cost \$900 for rent. Altogether, he said it cost him something like \$8,475. He has not included in that such things as laundry bills. Nor has he allowed anything for a doctor. It cost me something for doctor bills last year, and travelling expenses in connection with sickness, from \$1,200 or \$1,300. And then there are dentists, and then Christmas presents, birthday presents, weddings presents, income tax, law books, literature, spending money, vacation—an absolute necessity in that country, and a little money to put aside. He has not taken into consideration any one of those things. I figure, taking all those things into consideration, it runs up to some \$8,000 or \$9,000 if you want to do it reasonably.

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I have made it my business during the last year or so, and particularly last few months, to find out if I was unique in connection with not being to live on the salary that I was receiving. I have found out that I am just of a number. While my particular circumstances require certain expenditure along certain lines, the expenditures of other judges who are on different I But it all "comes out in the wash", being inadequate.

I have a letter from a man who said he had been on the Bench for fifty years. I am not giving any names, because I do not wish to have the name printed. He said that he had lost money during the last fifteen years. He lives in the city. I have inquired from judges of other districts, and they have the same thing to tell. Here is the case of a judge who lives in a small town in one of the outlying districts, where the cost of living is supposed to be less. This is what he says:—

Since the matter of increase of Judges' salaries has come up in Parliament, I have noted some remarks made by members of Parliament and other public men to the effect that judges are now being sufficiently compensated.

I would like to give you my own position, which I know is duplicated in many points by other judges, especially in the west, with reference more particularly to those remarks as to the limited amount of work performed by "outside" Judges.

I may say personally that I find it difficult to keep up with my work. For the past year and a half, I have been handling two Judicial districts when my own district of—alone, requires the services of a judge exclusively.

Consideration should be given to the exceedingly large areas of jurisdiction of our districts, my jurisdiction covering at present 186 miles east and west by 132 miles north and south.

Train services in this district are very trying all my travelling being done between midnight and 6 a.m.

Being located so far from the cities, my work as local judge of the Supreme Court is almost as great as my District Court work, and I am practically all of the Criminal work for the two districts.

I have been grubbing along in a small town, without modern conveniences, and I cannot afford to give my family any cultural advantages in the way of literature, music, art, etc., or any social advantages to which they should be entitled, and which are expected, and rightfully so, from the families of persons in judicial positions.

I am not able even to carry sufficient insurance to enable my family to do more than exist, should anything happen to me, and the idea of being able to do anything in the way of investments is too fantastic to need further comment.

In the matter of subscriptions to public causes, we naturally are the first victims, and a considerable portion of our incomes is released in this way.

My daughter has had to go out to work, though barely 18 years of age; my son is attending Public school, and I will not be able to afford on my present salary, to send him away to school or university.

I have had considerable illness in my family in the past two years and this has put me back to such an extent that I have had to borrow on my insurance policies to the limit, with little hope under present circumstances of ever being able to pay off these loans in my lifetime thereby reducing very materially the protection which the insurance is intended to give.

I have not been able to own my own home in the past eight years since my appointment.

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Subsequent to my serious illness in the fall of 1926, I was ordered away by my physicians for at least three months' rest, but my financial position would not permit of my going anywhere, and as a result I have been in very indifferent health ever since.

While our long vacation is for two months, and we are supposed to get away to recuperate, I have not been able to take advantage of that vacation, except to a very limited extent.

I might call your attention to the fact that neither this district nor the—— district is provided with a Law Library. The Provincial Government makes me an allowance of \$50 a year. Hence, I must of necessity provide myself with something besides Digests. I am not even provided with an annotated copy of the Criminal Code.

On my present salary, I can do practically nothing to get together a personal library.

I am satisfied that if our true position were placed intimately before the members of Parliament, they would realize at once that a very substantial increase in the salaries of District Court Judges is essential to the dignified carrying out of the duties and responsibilities with which they have been pleased to invest us.

You see, he speaks there of a Law Library. He has no library, but he gets 0 for the purchase of law books. He is unable to have a personal library. That is one example of how the judges in the province of Alberta have to live on the present salary. Nearly every judge in the province of Alberta, is in the same financial position. I would like to put in, if I could, a resolution by the Lethbridge Bar Association, which I think possibly covers the situation very well. (Reading):

Whereas we are impressed with the urgent necessity for an increase in the salaries of all judges in Canada; in order that they may be able to perform the high and important duties devolving on them in a manner befitting their positions reasonably free from the petty annoyances attendant on meagre salaries.

And whereas the county and district court judges of Canada, have, we believe, unwillingly had to memorialize the government for such an increase of salaries, as would make the remuneration for their services reasonably adequate.

And whereas a committee of the Canadian Bar Association has also requested the Government along the same lines.

And whereas we believe that the changed conditions in the world especially the vast increase in social obligations have made the cost of living even greater than appears according to the increased cost of commodities, and the salaries paid to our judges, have not kept pace with such changed conditions.

And whereas, if we are to retain our justifiable pride in our judiciary and not be disturbed in our minds by a possible lowering of this high standard owing to the necessities of inadequate salaries we are of the opinion that substantial increases are necessary.

And whereas we believe the importance of the work done by a judge is not always gauged by the number of cases tried or the amounts involved, but many other factors enter into the proper consideration of the question. For example, we believe the work done by the Court of the Judicial District of Lethbridge with a fast growing population and wide areas and with the tremendous responsibility in seeing that British justice is administered in a manner that insures the respect of those new to our laws and institutions. We also point out that in this district

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and similar districts there are problems arising almost every day owing to local conditions not met with elsewhere that require special consideration.

And whereas while we recognize that there should be adequate salaries paid to judges in large centres of population where the cost of living is high and the volume of work great, we are firmly of the opinion that the districts where the population is not great, other considerations enter into the question, such as local conditions above referred to, lack of educational facilities, restricted social conditions, higher cost of commodities in smaller centres distant from the central markets, hardships of travel, etc. that make the necessity for the same increase as great in smaller centres as for large centres.

And whereas there is at present a tendency to equalize the work done by the district and county court judge by enlarging the district by decreasing the number of Judges and by the system of calling outside judges to assist the more busy judges.

And whereas many judges are appointed just when they are coming to their prime and before they have been able to lay much aside, we believe that a prospect of a bare living is not conducive to the appointment of the best legal talent to the bench.

And whereas all judges are required to devote themselves exclusively to their judicial duties.

And whereas we believe a salary of nine thousand dollars per annum is a fair and reasonable sum to be paid the district and county court judges of Canada, considering the importance and dignity of the positions they hold, the high cost of living and many demands made on them.

Be it therefore resolved that we are in hearty accord with the movement to give a substantial increase in salary to all judges of Canada and particularly that the salary of the District and County Court judges should be at least nine thousand dollars per annum, subject to no deductions and that no distinction be made in the salaries of the said judges throughout Canada.

LETHBRIDGE BAR ASSOCIATION,

Per H. OSTLUND,
President.

H. FAIRBAIRN,
Secretary Treasurer.

Mr. TOTZKE: The statement was made here a few moments ago, that it was the ambition of all lawyers to become judges.

WITNESS: Well, I did not say it is the case with all lawyers. Some hope to become K.C.'s. Some hope to become Benchers, and some hope to become corporation lawyers, but for the ordinary lawyer, I believe that is the ambition. However, this has been my experience with a number of judges: I have seen judges being appointed, and when they first sat down in their seats in their offices, they said "We are very comfortable," but within six months from the date of the appointment, they found their salaries to be quite inadequate.

By Mr. Sanderson:

Q. Are there many cases, Judge, that have come under your observation, yourself included, where a lawyer is appointed to the Bench, where there has been a financial sacrifice?—A. Speaking for myself, as I mentioned a while ago, I think I could have retired if I had been practising law up to the present time. I do know that in nearly every case that I have recollection of, the lawyers would have been better off if they had continued in practice.

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Q. That is from the financial standpoint?—A. Yes. We have only one business, that is, the business of a judge. You could be nothing else. We cannot be members of Parliament. We cannot belong to the Senate. We cannot be in positions as directors of companies, or things of that sort. Last year, to give you an example, I had an opportunity with one day's work to make \$6,000 which I could not make. If I had been practising law, I could have made \$6,000 in one day last year.

By Miss Macphail:

Q. Do you think anybody can earn \$6,000 in a day?—A. I do not believe I am not suggesting that. I might say that I have no desire to be a wealthy man. I have no desire to be a millionaire, but I have a desire to live comfortably and live free from the petty annoyances of financial worry.

By Mr. Carmichael:

Q. But you think, Judge, you will never attain that position, as long as you are farming as a side-line in the West?—A. I must say that I put most of my earnings, as a practitioner, into farms. I have been treating my farms as liabilities, but I have no doubt that if I had been giving that close attention to my farms, which I would have done if I had not been on the Bench, I would have been much better off.

By Miss Macphail:

Q. Do you think, however, that you would make more money on the Bench, and farming on the side, than if you left the Bench and went farming?—A. I think possibly I would live a freer life, if I went on the farm. I know a farmer who was broke a year ago, who figures on making \$100,000 this year when he gets his crop threshed. His crop is not yet threshed, and he expects to get at least \$100,000.

Q. I come to the conclusion, from what you say, that you do not think that that is a thing that could be guaranteed, or you would resign and go farming, if you really thought your financial position would be better?—A. I do not believe I would resign my job if they would only give us a decent salary. I like the work. I have no objection to farming, however. The farmers are the salt of the earth. I think they are the real aristocracy of our country.

The CHAIRMAN: It is almost one o'clock. What is the wish of the Committee. I may say that I have received from the Justice Department, a very lengthy document, dealing with the pensions of judges, the salaries of judges, and an historical statement as to the salaries of judges from Confederation, with a complete statement of the jurisdiction of the various courts throughout Canada. Is it the wish of the Committee that this information be read into the record, and added to it as addenda?

Carried.

The CHAIRMAN: That will be addenda No. 2.

Mr. HAY: As to the number of witnesses you may yet have?

The CHAIRMAN: May I suggest, too, that there are three judges of Superior Courts from Western Canada. It was proposed that we should hear representatives of the Canadian Bar Association. There was a special committee of the Canadian Bar Association struck to go into this question of remuneration, and I understand that Mr. Rowell will be able to come here on Friday.

Mr. TOTZKE: Last meeting, I requested that the committee should not sit on Friday morning, that several of the members would be away. I would suggest that we sit to-morrow morning, and not sit on Friday.

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Mr. LADNER: I was going to suggest that we sit this afternoon. C. Justice Brown and the other members of the Bench are here, and we can hear them.

The CHAIRMAN: May I say this in connection with the matter, that if representatives of the Canadian Bar Association are heard first, I think Superior Court judges who are here would prefer that. They do not wish to make any particular representations, unless the committee especially desires to hear them. They are here in response to the invitation, acknowledging the courtesy of the invitation, and they, I think, would be perfectly satisfied with the presentation of the case by the Committee of the Bar Association. They are here at the invitation of the committee, and if the committee wish to get information that is not obtainable from the representatives of the Canadian Bar Association, I have no doubt they will be glad to give it.

Mr. HAY: I think we should get permission to sit this afternoon.

The CHAIRMAN: We have permission from the House. It is entirely in the hands of the committee.

Mr. LADNER: Mr. Chairman, just on the point that you raised there, I would suggest that if you wait until after Mr. Rowell's presentation there will be an opportunity until the following Tuesday or Wednesday when the committee will sit again, for those members of the Supreme Court Bench who are here to present their views. It would mean that they will be detained here until that time. For those reasons, I would move that the committee sit this afternoon, and hear the witnesses who are now here, and who may be willing to give such information as we may desire. I think it is advantageous to the committee and to the members of the House that we should hear not only the representations of the Canadian Bar Association, but of the Superior Court judges as well.

Mr. BOYS: Mr. Chairman, I do not know whether I rightly understand the proposal, but I should think our desire would be to let the argument or presentation of the case on behalf of the County and District Court judges be completed, and I understand there are three or four witnesses still to be heard. Let that be done first, and then we can hear any other gentlemen who would like to be heard.

Mr. LADNER: I would move that the committee resume at three-thirty this afternoon.

The CHAIRMAN: Then I take it that the committee stands adjourned until 3.30 this afternoon.

Witness retired.

The committee adjourned until 3.30 p.m.

The committee resumed at 3.30 p.m., pursuant to adjournment, the Chairman, Mr. J. T. Thorson, presiding.

The CHAIRMAN: If the committee will please come to order I will ask the clerk to read the minutes of this morning's meeting.

Minutes read.

Mr. CARMICHAEL: I move the adoption of the minutes.

Motion agreed to.

The CHAIRMAN: Since this morning, I have received a communication from President A. K. Maclean, of the Exchequer Court, to this effect:—

April 25, 1928.

J. S. THORSON, Esq., M.P.,
House of Commons,
Ottawa, Ont.

DEAR SIR,—I beg to acknowledge receipt of your letter of the 23rd instant, inviting the Judges of the Exchequer Court of Canada, if they so desired, to appear before the Committee of the House of Commons considering the question of the adequacy of the remuneration paid to the judges of the various courts in Canada. I have conferred with my colleague, Hon. Mr. Justice Audette, and we are of the opinion that we could not likely assist the committee by appearing before it; as we have no particular representations to make concerning the matter being considered. My colleague and myself, however, wish to thank your committee for the opportunity extended to us of appearing before it.

Yours very truly,
(Signed) A. K. MACLEAN.

I also have a communication from the Montreal Board of Trade to this effect:

MONTREAL, April 12, 1928.

Honourable ERNEST LAPOINTE, B.A., LL.B., K.C.,
Minister of Justice,
Ottawa.

SIR,—I have the honour to communicate a resolution by the Council of this Board at its meeting on 11th inst., with regard to the desired increase in the salaries of judges, as follows,—

Resolved.—That the Council of the Montreal Board of Trade unanimously endorses and heartily supports the efforts of the Canadian Bar Association to procure such increase in the salaries of judges as may render the same commensurate with the importance of the duties judges are called upon to discharge,—

That the Council of the Board is strongly of the opinion that it is of the highest importance that the remuneration of our judges should be sufficient to enable the more brilliant members of the legal profession, possessing the high qualifications desirable for the judiciary, to forego, with a minimum sacrifice, the lucrative incomes obtainable in their ordinary practice, and to accept and retain the distinguished office of a judge.

I have the honour to be,

Sir,

Your obedient servant,

(Signed) J. STANLEY COOK,
Secretary.

It was intimated to me that His Honour Judge Constantineau wished make a few additional remarks, and if it is the wish of the Committee we may recall Judge Constantineau now.

His Honour JUDGE CONSTANTINEAU, re-called.

The WITNESS: Yesterday I was asked to represent the British Columbia Bench, and I forgot all about it this morning when I was before this Committee. I have one or two remarks to make in this regard. First, I am informed that the jurisdiction of the County Court of British Columbia is higher than that of any other County Court in the Dominion of Canada. Secondly, they receive remuneration from the province.

His Honour JUDGE D. J. O'CONNELL, called.

The WITNESS: Hon. Minister of Justice, Miss Macphail and hon. gentlemen: the general field has been so very well covered this morning, by the other judges that I have very little to add, and consequently I will be very brief in my remarks.

The only thing, perhaps, to which I wish to direct your attention, would be to the peculiar position of the Judges in the county of York, that is, the Judges of the city of Toronto. We have six County Court Judges in the county of York, and each of these Judges, as you know, receive a salary of \$5,000 per year from the Dominion Government. The senior County Court Judge receives a remuneration of \$2,600 from the province of Ontario, and the other five County Court Judges each receive, from the province of Ontario, \$1,600 per year. I believe that that is more or less of a temporary condition, because, the Ontario legislation reads at the present time, those remunerations of \$2,600 and \$1,600 per year are provided for only during the incumbency in office of the present judges. When these judges vacate office—some will be vacating office in the course of a year or so, due to arriving at the age limit—it is not at all improbable that the \$2,600 and \$1,600 will be either entirely taken away from their successors, or they will be placed in the same position as the other County Court Judges throughout the province, namely, \$1,000 per year, the same as the senior judges are getting elsewhere. The reason for this seems to be that the Ontario Government has in mind the idea of appointing a judge for the Surrogate Court in the county of York. If this should be done, a great part of the work, for which the judges receive this special remuneration, will be taken away from the other County Court judges. This remuneration of \$2,600 for the senior judge, and \$1,600 for the junior judges, is provided, of course, for the work which they do under provincial statute, such as Surrogate Court work, appeals from police magistrates in some matters and duties performed under the various Acts of the province.

In addition to the \$2,600 which the senior Judge receives from the Ontario Government, by reason of his being the senior judge, he also gets an additional remuneration because he performs the duties of Senior Police Magistrate for the city of Toronto. Acting as Senior Police Magistrate, he also acts as a member of the Board of Police Commissioners. This is a temporary arrangement, owing to some peculiar condition existing in the city of Toronto some few years ago, when the Provincial Government deemed it advisable to appoint the senior judge of Toronto as Senior Police Magistrate for the city. I think it was only contemplated that he should occupy that office for a short time. Consequently, when he ceases to hold that office, that additional remuneration will disappear.

As I have already intimated, the general field has been covered by the judges who preceded me this morning, and I have nothing to add in that respect,

[Judge D. J. O'Connell.]

pt, perhaps, to tell you of the conditions which are peculiar to the county York.

As I said, we have six County Court Judges there, and for the convenience distributing the work we divide the work which we have to do into six different classes.

The first class may be called that which deals with the Sessions of the Peace, and the County Court Judges' Criminal Court. Then we have the Non-Jury Civil Court, the Jury Civil Court, the Surrogate Court, the City Division Court, and the Judges' Chambers.

The Senior Judge of the city of Toronto devotes his time almost exclusively to the Sessions of the Peace and the County Court Judges' Criminal Court. The discharge of these duties, for ten months of the year—during the whole year, with the exception of the long vacation—the Judges sit either in Sessions or the County Court Judges' Criminal Court every day of the year that is not a public holiday.

In addition to that, we have the Non-Jury Civil Court, where we have on the list for trial an average of one hundred cases every month. One judge has to devote the whole of his time, during that month, to disposing of these one hundred cases. You can readily understand, with such an enormous amount of work to do, that the judge who is called upon to discharge these duties has his time fully occupied. He is sitting in court every day, and after his day's work is done, and sometimes after his month's work is done, he has to take the evidence regard to many cases which he has heard; read the evidence, read the reports which he has been referred, look up his law, and, in his spare time at home, or wherever he can get it, prepare his judgments. So that, the judge sitting in that court has his time occupied fully, not only during the day, but during the evening as well.

He no sooner gets through with this work at the end of the month than he has to step into another Court. It may be that he then goes into the Jury Civil Court. When we have our Jury Sittings we have some forty-six cases on the list, and the Judge who goes into that Court has his time fully occupied during the month with cases of that kind. Sometimes that Court extends for a month and a half, and we have to take a Judge from some other Department and have him assist in that work.

After the Judge gets through with that work, he steps from the Jury Civil Court into the Surrogate Court. Any Judge who has to discharge the duties of a Surrogate Court Judge in Toronto is entirely unable to complete the work during the month, and he has to call for the assistance of some other Judge.

Then, after he gets through giving his month to Surrogate Court work, he steps into the Judges' Chambers. There he has the greatest variety of work to perform. All kinds of motions are brought before him in the different actions pending in the Courts. He has appeals from the Police Magistrates upon various convictions, under different Acts, both provincial and otherwise. He has to hear matters in Overholding Tenancies, and numerous other cases. So that, the Judge in Chambers is also fully occupied.

Then, we have the most remarkable Court I think on the American Continent, and that is the Division Court of the city of Toronto. This duty is discharged entirely by Judge Morson. He is sitting every day in the year in that court, unless it is a public holiday, and he disposes of thousands of cases during the year. It is nothing for him to have thirty or forty, or perhaps more cases on his list almost every day of the week. I think that any one who is acquainted with that gentleman will readily admit that when he passes out of office it will be almost impossible to replace him by an inexperienced person, with the expectation of his discharging the work nearly as satisfactorily.

[Judge D. J. O'Connell.]

Some reference was made this morning to the comparative cost of living in the various localities. It has been pointed out to you that, in the case of Judges living in the smaller places, somewhat remote from the cities and from the schools, they are placed under very considerable expense in having to send their children from home to receive education in some city. That, no doubt, is true and a great number of these Judges, who have not the advantage of living in a large city like Toronto, are put to very considerable expense in educating their family. Perhaps these Judges have incurred an unnecessary luxury in having children, but in Toronto I know that some of us have been improvident enough as in my own case, to have five children. Perhaps I might mention that this happened while I was still practising before the Bar, and not since I came on the Bench.

On the other hand, as you can understand, this is not just a question of what you have to pay for clothing, or what you have to pay for provisions. As any one knows, who has had the experience of living in a city, there are scores of expenses, of a social character and otherwise, which a Judge living in a large centre like Toronto cannot possibly avoid, and with which the Judges in smaller places are not confronted. While they have these incidental expenses, perhaps larger than we have in Toronto, and which I already mentioned, yet, on the other hand, with regard to rent and social conditions, and other things existing in the large centres, I think you will find that the living expenses of the Judges in the larger cities are somewhat greater than they are elsewhere.

Now, gentlemen, I think this is all I have to say. I thank you very much for the opportunity of addressing you.

Mr. DUFF: It seems to me, Mr. Chairman, that the witnesses have not agreed among themselves. One says it is more expensive to live in the country, while Judge O'Connell says it is more expensive to live in the city. It seems to me that we should have a definite understanding as to the judges living in the city and in the country. If they cannot agree, how are we to decide?

Hon. Mr. LAPOINTE: It is expensive in both places.

The WITNESS: I cannot do any more than give you my experience in that respect. I think, owing to the peculiar conditions in a large city, the social conditions, the various demands that are made upon us, that the expenses are very much greater in the city than in the country.

By Mr. Bell (Hamilton):

Q. Is it not a fact, Judge O'Connell, that even with the six judges in the county of York you find it necessary to bring judges in from other counties in order to get through with the congestion of work?—A. Well, we have not had much experience like that of late, but there are occasions when a judge is sitting in the Jury Court, say on the 1st of March, and is expected to go into another court on the 1st of April, and that he is unable to get through his work by the 1st of April, and we have to call in other judges to finish his work that he started on the 1st of March.

Q. I understand that judges have been asked to come in from outside counties very frequently, Judge Ward, for instance?—A. Well, I would not say that he has been called in frequently, but I can say to you gentlemen without the slightest exaggeration that the Judges' work in the city of Toronto is of the most onerous character, that from the time we commence after the long vacation until the end of that current year, there is not a single hour of the day that the judges in the city of Toronto are not constantly engaged.

By Mr. Duff:

Q. Do you ask for more judges as well as an increase in salary?—A. We are not asking for more judges. We are doing the work and on the whole we are able to accomplish it without much outside assistance.

[Judge D. J. O'Connell.]

Q. But with great difficulty?—A. By constant work.

By Mr. Sanderson:

Q. Would you say that the work of the average County Court Judge in Toronto is heavier than the work in places outside Toronto?—A. You will understand that I am reluctant to make a comparison.

By Mr. Boys:

Q. Your total salary is \$6,000 to-day?—A. It is \$6,000.

Q. Are there any other fees that come in periodically, such as arbitrations and so on?—A. Very rarely. I have been on the Bench six years, and I have had one arbitration during that period of a very short character, out of which I made \$50. I think one judge who has been sitting on the Bench for fifteen years or more has had one or two arbitrations. Judge Coatsworth had one last year, out of which he made a couple of hundred dollars, but cases like that are extremely rare.

By Mr. Carmichael:

Q. Judge O'Connell, in regard to the Senior Judge, I think you indicated that he receives \$5,000 as a Federal salary and \$2,600 from the Provincial Government, and that he also gets some other amount for acting as Police Commissioner; can you tell us how much that is?—A. I do not exactly know, but I think it would be in the neighbourhood of \$3,000 a year.

Q. In the neighbourhood of \$3,000 a year?—A. Yes.

Q. Have you any idea how much time he devotes to that particular phase of the work?—A. Well, he exercises a general supervision over the Police Magistrates of Toronto, and what is called the Board of Police Commissioners, for such times as he can spare from his judicial offices.

Q. His time is not regular?—A. No.

Q. For my own information, I would like to know how long it took you, after completing your public course, to qualify as a Barrister?—A. It took me four years in the Toronto University, and after that three years at the Law School, and twenty years or more as a Barrister to qualify myself as a Judge.

Q. Not necessarily twenty years?—A. Nearly that time.

Q. Ten years qualifying as a Barrister, and ten years to qualify as a Judge?—A. Yes.

By Mr. Bell (Hamilton):

Q. You spoke about the unremitting nature of the work in your county, and you have made some reference to the fact that it kept on in connection with the County Court sittings and so forth, up to the long vacation. Do you, in the County of York, continuously have your courts for the trial of criminal cases by the Judges without a Jury, throughout the summer?—A. Yes. I forgot to mention that the County Court Judges Criminal Court in Toronto sits every week during long vacation, and the cases last one, two, three and four days during the week.

Q. During the whole of August?—A. During the whole of August. The Division Court also sits during the whole of the month of July. Of course there are always one or two Judges sittings at the City Hall to hear applications in chambers, and so on.

(Witness retired).

The CHAIRMAN: There are two other Judges of the County Court who were not covered by the order passed by this Committee last Thursday, namely, His Honour Judge Stewart, Prince Edward Island, and His Honour Judge Ouseley,

[Judge D. J. O'Connell.]

of Saskatchewan. Is it the wish of the Committee that these gentlemen be heard and that they be considered and dealt with in the same way as the other Judges (Agreed to).

HIS HONOUR JUDGE W. S. STEWART: Mr. Chairman and members of the Committee, I appreciate the privilege of being permitted to appear here to support our cause before this Committee. At the outset I wish to say, with regard to the County Court Judges of Prince Edward Island, that they receive no fee or compensation of any kind from the province. I also wish to say that they are taxed perhaps a little more severely than they are in other places. I pay under the provincial income tax, over four times what I am obliged to pay under the Dominion Act, and as the province is always hard up for revenue I do not see any hope whatever of this burden being lessened in the future.

With these remarks I wish to refer for a minute or two to the words "inferior" and "superior" as applied to Canadian Judges.

MR. DUFF: I would not say they are inferior or superior. They are both equal.

WITNESS: I wish to say that in all the Courts of Canada there are inferior Judges and superior Judges; for instances, in the Supreme Court of Canada it is in some cases an inferior Judge. Cases are brought before the Judicial Committee of the Privy Council, and so with regard to all Provincial Courts.

HON. MR. LAPOINTE: The Chairman and myself will not admit that.

MR. DUFF: I will not either.

WITNESS: I think with regard to the Supreme Court of Canada the Provincial Courts are inferior of course, I mean to the Superior Courts. Again, the Courts of the different provinces, with regard to the Appeal Courts that have been established in the various provinces, and even the County Courts and the District Courts are in a sense Superior Courts, because there are appeals taken from the County Court Judge.

HIS HONOUR JUDGE Constantineau spoke of the difference in the salaries paid to the Superior Court Judges and to the County Court Judges in England. Although we follow the example of England in a great many things, the worthy example she gives, in some things we do not. We know perfectly well that in England society is built up, and "inferior" and "superior" are more emphasized there than in Canada. This is the western hemisphere, and western ideas prevail more here than they do in the Old Country.

MR. DUFF: We are all equal.

WITNESS: That was recognized by the Parliament of Canada when they abolished titles. All the County Court Judges of Prince Edward Island, making no invidious distinction, are kept up having regard to the Judiciary of the rest of Canada. We all know, and it is our boast, that this is a democratic country, where no favouritism is shown and where no special privileges are granted. It is also our pride that we do not recognize in this land and do not tolerate systems of caste of any type. The fact of the matter is, that the Judiciary of Canada is all one judicial tree, and if some of its branches are neglected and thought ill of and a fair amount of attention and support is not given to the other main branches of the tree, its health and efficiency will be impaired.

Now, I am going to make my remarks very brief, because they have been emphasized already, but this system of County Court Judges has made, it seems to me, a very fair and reasonable proposition to this Committee. They ask that the salaries of these judges be at least three-fourths of what is paid the Superior Court Judges. In asking for that, we are only going back to a state of things that existed in Canada in the early days of Confederation.

[Judge W. S. Stewart.]

I can only speak of Prince Edward Island. In the early days of our connection with Confederation and for some years afterwards, the Superior Court Judge there received \$3,200, and the County Court Judges, after three years of service, received \$2,400. I am told that practically the same proportion existed in Ontario, Nova Scotia and New Brunswick. Now that has been departed from, and I think that perhaps the District and County Court Judges are to a certain extent themselves to blame for that departure. Their passiveness and timidity and reserve have been somewhat taken advantage of by those who have undertaken, on behalf of the Superior Court judges, to deal with the question of Judges' salaries, and it is only lately, within the last few years, that the District and County Court judges, seeing how things have been going, have organized themselves to look after their rights and get matters back to what they were some 20 or 25 years ago. I think it is a fair proposition that the disparity that exists now between the salaries paid the Superior Court judges and the County and District judges cannot be justified or excused on any ground whatever. On what principle do the Superior Court judges—I do not mean the judges of the Supreme Court of Canada,—but the Provincial Supreme Court judges—on what principle and on what idea of fairness and justice do they receive substantially double the salaries that are paid the County and District Court judges? After what you have heard this forenoon and afternoon, I do not think that that state of affairs can with any sense of fairness be continued. If this Committee has this matter correctly before it, then I submit that that disparity should be set right. I do not want to be considered as reflecting in any way on any Superior Court judge, or saying that he should not receive, if this Committee thinks it desirable, an increase of salary; but the statement is made by the Supreme Court judges and those who support their claim, that they cannot live on \$9,000 per annum. That one fact is an unanswerable reason why the County and District Court judges' salaries should be increased. If that statement be true, if there is anything supporting it, if it stands upon any reasonable and fair basis, then it comes as a matter of course that the County and District Court judges, who in all respects have the same expenses, the same standard of living, the same education and qualifications professionally, should receive the same emolument. After all, the appointments that take place to the Supreme Court or to the County Court, are almost a matter of indifference. I was appointed to the County Court almost fourteen years ago. It was an appointment that I did not seek. I was offered it. I was then getting up to something like 59 years of age. And of course when a person gets up to that time of life, his powers begin to wane, and he is apt to take advantage of an opportunity of settling himself. I took advantage of that opportunity. Now that is all I have to say in connection with this matter that I have undertaken to deal with, but I will be very happy to answer any questions if any member of the Committee sees fit to ask them.

By Mr. Totzke:

Q. How many District Court judges are there in the province of Prince Edward Island?—A. Three.

Q. What is the population of the province?—A. Just now I do not know exactly what it is.

Hon. Mr. LAPOINTE: About 90,000.

The WITNESS: The population has diminished somewhat during the last forty years. I think between 75 and 80 per cent of the people are agriculturists, and I do not suppose that they do quite as much business as in years gone by, but there are a great many new Acts; the Prohibition Act, the Excise Act, and I am told that some difficulty is encountered in getting convictions

[Judge W. S. Stewart.]

before the Jury under the Customs Act and I understand there is going to be an amendment made under which the District Court judges will be asked to try cases brought by the Customs Department.

Witness retired.

Judge HUYCKE: Now Mr. Chairman, last but not least the very great Province of Saskatchewan: Judge Ouseley.

His Honour Judge F. A. G. OUSELEY (Moose Jaw, Saskatchewan): Called.

Mr. Chairman, Miss MacPhail and Gentlemen: I was very glad that I did not come before the Committee previous to the lunch hour. I noticed the end of the forenoon that the Committee was getting a hungry look and never like to speak to a hungry audience.

This is the first occasion since Confederation that any body of judges have felt constrained to come to the representatives of the people to ask for an increase of salary. As one who has had something to do with it from the inception of the movement. I want to say that the matter was not undertaken unadvisedly nor without due consideration and consultation. We felt that as the Governments for the last eight years had not increased the salaries of the District Court judges, nor of the Superior Court judges, it would only be necessary for us to come before the representatives of the people, state our case and ask whether on the facts presented, an increase was not due to us. The matter has been so fully dealt with that I am not going to weary you gentlemen with reiterating anything that has been said. There are just two matters that I want to put before you. One is the fact that while we had an increase of salary in 1920, we have also had to pay an Income Tax. And the other is that whereas in former years we have had a source of remuneration in the way of arbitrations, the government has seen fit to take that from us. So far as the remuneration from arbitrations is concerned, in the previous years it amounted to considerable sums, so far as the judge of the District Court of the Judicial District of Moose Jaw is concerned, but that source of revenue is now cut off.

By Mr. Hay:

Q. In Saskatchewan do you get an allowance for Division Courts or Judgment Debtor's Courts?—A. Yes. I may tell you that we had a conference with the Provincial authorities in 1919. Under the various Provincial Statutes there were certain fees which we earned and we consulted with the members of the Cabinet and arrived at a basis under which all the fees under these Provincial Statutes would cease, and in lieu they would pay us a straight salary of \$125 a month, \$1,500 a year. Apart from that we got no fees at all. For that we do the Surrogate Court work; two days a week I hold Kings Bench Chambers as Local Master; and do all the other work under the various Provincial Statutes.

By Mr. Boys:

Q. How do you say the work of arbitrator was taken away?—A. When I tell you that I earned in one arbitration \$2,500.

Q. You misunderstand me. Under what Statute or when was that taken away?—A. Under the Statute expropriating lands for highways we used to be paid \$20 a day. That was commuted and goes in with our salaries. We get no fees under any Provincial Statute now.

Q. And that is what you have reference to, it was under Provincial Statutes that you received fees as arbitrator and that has been commuted.—A. No, I do not mean that. I mean under the Federal Statute.

[Judge F. A. G. Ouseley.]

Q. You can act as arbitrator under the Federal Statute but you cannot as Commissioner?—A. I am not so sure of that. I can act but they do not pay me for it. I can act but I get nothing for it. One source of revenue is absolutely cut off. Another matter which I must point out to the Committee is this: the question of insurance. It costs me about \$1,400 a year to carry enough insurance to keep my wife and family providing I am taken off. That comes out of my salary. That is the cheapest class of insurance I can buy. Life insurance represents my estate, and I have been on the Bench nearly 20 years. Or rather, I start my 20th year in July. I have not been able to save a dollar out of my salary. I do not see how I am going to be able to give anything for my sons an education on the salary I receive.

By Mr. Totzke:

Q. What position are you in, Judge, with regard to pension?—A. If I wait another 11 years I will be able to retire on a pension.

By Mr. Sanderson:

Q. What will the pension be?—A. \$5,000 at the present time.

By Mr. Totzke:

Q. If you were to drop off at the present time, would there be any allowance for your widow in the way of a pension?—A. No, none at all. There is no pension whatever to judge's widows. That is the reason I have to carry so much life insurance, because I can never lay by enough to earn any money. And in the position I am it is very different from that of a man in commercial life. He can go out around the street and converse and get a tip-off to buy something, but I do not get that, and even if we did get it we would not have the money to go on with it.

By Mr. Sanderson:

But tips sometimes go the wrong way.

By Mr. Totzke:

Q. Until a judge reaches a certain length of service, is he entitled to any pension?

The CHAIRMAN: There is a full memorandum in the record covering that. *Totzke.*

The WITNESS: Until we reach the age of 75. I went on when I was rather young, so I have a few years to elapse. That is all, gentlemen. Unless there is any other question I have overlooked.

By Mr. Carmichael:

Q. In Saskatchewan there are 21 Judicial Districts and 16 resident judges. Is it necessarily then one judge must attend two districts in many cases?—A. Yes.

Q. In such cases is it your opinion that such judge should receive any special remuneration when he has two districts to look after?—A. Well, no. I may say that I acted as acting District Court Judge in that way. I acted for five years as Acting District Court Judge for the District of Gravelbourg. I received no extra remuneration from the Federal Government. The Provincial Government after five years' service gave me \$1000 as Acting Surrogate Court Judge.

By Mr. Carmichael:

Q. At the present time do those who are acting get anything extra?—A. No. They get nothing extra. I thank you, gentlemen.

Witness retired.

Judge HUYCKE: Mr. Chairman, and members of the Committee, on behalf of my colleagues and myself, I wish to tender to all of you our very sincere, heartfelt sympathy, and gratitude for the very cordial hearing that you have given us. I think you deserve our sympathy, the whole of you, but we thank you just the same.

The CHAIRMAN: Is it the wish of the Committee that any further question should be asked of the judges who have spoken, or that they should be discharged?

Mr. DUFF: That is satisfactory.

The CHAIRMAN: There are three Superior Court judges here, two from Saskatchewan, and one from Manitoba. Is it the wish of the Committee that the gentlemen be heard?

Carried.

Chief Justice BROWN called. (Saskatchewan).

WITNESS: Mr. Chairman, Miss Macphail, and gentlemen: Mr. Justice McDonald and myself are here representing the Superior Court judges of the Province of Saskatchewan; twelve in number, five Appeal judges and seven members of the Court of King's Bench. We got the wire of the Chairman of the Committee on Friday, and we interpreted that wire as an invitation to be present on the occasion, not as a command, but as a courteous invitation, and we thought that in view of the courteous nature of this invitation, it was our duty to be represented before this Committee, and to be heard if it was the desire of the Committee to hear us.

We did not expect to be represented by the Committee of the Bar Association and therefore, we had no brief specially prepared for the Superior Court judges and I come here to-day without any special preparation. I came immediately the wire was received, and, therefore, I am not as well prepared to present the case of the Superior Court judges to this Committee, as perhaps the District Court judges were prepared to present their case. Having listened to their case to-day, I think we all must be impressed with the preparation that was made in connection with that case, and also the presentation of it. I would have preferred, and I think my brother-judges of the Superior Courts that are here would have preferred if it had been convenient for the Committee to have awaited the presentation of our case by the Committee of the Bar Association because I know they have prepared, and well prepared, and well considered the case on behalf of not only the Superior Court judges, but the County Court judges of the various provinces as well. And if that case had been presented first, then I think we might perhaps in a personal way have supplemented the case, and been more effective in the presentation of the case before the Committee. But in deference of the views and the wish of the Committee, I am here to answer any questions that may be submitted to me. I am not often placed in that position. I have seen others shake and tremble in a similar situation, and I perhaps will now be in a position to sympathize with those whom I have seen suffer a similar fate.

I have, however, Mr. Chairman, a few submissions that have suggested themselves to me, which may be of some assistance to the Committee in arriving at a fair and judicial decision of the matter that is committed to this Committee.

In the first place, the Superior Court judges to-day, as has been indicated here, are paid a salary of \$9,000, with the Chief Justice receiving an extra salary of \$1,000. I refer to the Superior Court judges of all the provinces. I think in the province of Ontario, the Superior Court judges get another \$1,000 from the Provincial authorities. I do not think that applies to any of the other

[Chief Justice J. T. Brown.]

vinces. It certainly does not apply to the Province of Saskatchewan. The remuneration, and the sole remuneration, that the judges of our Superior Courts is that which is furnished by the Dominion Government.

Now, let me say with reference to the Superior Court judges of the Province of Saskatchewan, whom I particularly represent on this occasion, that I have been on the Bench for eighteen years. As a matter of fact, I have been longer than any other Superior Court judge in our province, and therefore, while anything that I say may be considered, as prejudiced, in view of the fact that I have a personal interest in it, it is nevertheless said out of the book of experience. I have had the experience of eighteen years on that Bench, and I know fairly well whereof I speak. These men with whom I have had the honour and the privilege of being associated in the work of administering justice in that province are men who at the date of their appointment to the Bench were leaders of the Bar of that province. They were young men, men in the prime of their life, men who could give of the best of themselves to the work of their office, and men who were carrying on that work in a most efficient, most able, and most impartial manner. I think anyone who consults the people of Saskatchewan will find that there is no complaint, that there is the greatest degree of satisfaction with the administration of justice by the Superior Courts. And I am speaking particularly of the Superior Courts, although I could include the District Court as well; but, as I say, the people of Saskatchewan are pleased with the administration of justice by the Superior Courts of that province. And, I do not think I need hesitate to say that when I speak in that way of the Courts of Saskatchewan, I could likewise generalize and say that the people of Canada, notwithstanding criticism in some quarters, have the greatest faith, and the greatest confidence in the administration of justice in this country. And, we of the Bench do have had the responsibility, and the privilege, shall I say, of administering justice throughout this Great Dominion, take pride in the fact that we have the confidence of the people of Canada in the administration of justice, and I hope the day will never come when the standards shall be in any way lowered, either through stress or circumstance, or for any other reason. It is something that we have reason to be proud of, and something that we should try to maintain.

With reference to those judges with whom I am acquainted in the province of Saskatchewan, I want to say this, that never have I known a period in the history of the Bench—and I have known it for a good many years—when the judges of our Superior Courts were so hard put to it financially, were so worried and so concerned over their financial affairs as they are to-day. I make that statement with knowledge. The statement, Mr. Chairman, and gentlemen, is true. You may ask me "How is that, what is your explanation?" I say this, with knowledge again, that nearly all these men went onto the Bench at a time when they had saved quite a nice little amount, which they had put by, from the practice of their profession. They have found it impossible, and you may ask the question why it is impossible—with the standard of living which a judge sets for himself and that apparently is required of him, and that the community demand of him, it has been found impossible, as I say, for a judge to live within that income that is given by the Dominion Government, and maintain that standard, and look after his family as they should be looked after. The result has been that from year to year, these judges have been compelled to take from the capital that they had saved up, or the earnings that they had saved up in the practice of their profession. And, in many instances—I speak now of our own judges—in most cases, I think I can say, with a couple of exceptions only, that that surplus capital has been eaten up. These judges to-day have not only eaten up their capital, but they have eaten up part of their insurance. The consequence is that we have a financial worry that is quite observant, and quite emphasized at the present time.

[Chief Justice J. T. Brown.]

That is the exact position of the judges of the Superior Court Bench of Saskatchewan to-day. As Mr. Duff knows, this last year, I had the privilege travelling over this country from coast to coast, from the Atlantic to the Pacific. That afforded me an opportunity of meeting with the large majority of the Superior Court judges of Canada from the Atlantic to the Pacific, and even at that time, the question of salary was a moot question among the judges themselves, and was, I think, a moot question in the House of Commons. The matter was discussed, at least during the last session of the House of Commons, though it may not have been considered seriously.

The situation I have emphasized with respect to the Superior Court Judges of the province of Saskatchewan is one—if I may be allowed to give evidence of this character, because, after all, it is hearsay evidence, which probably would not be tolerated in a court of justice—

Mr. HAY: Everything goes here.

The WITNESS: —if I may be allowed to give that evidence from the expression of opinion made by these Judges themselves, that situation exists from the Atlantic to the Pacific amongst the Superior Court Judges of the Dominion of Canada to at least 75 per cent. The other 25 per cent have other means, or they have not perhaps quite the same responsibilities. But the man who has family responsibility to-day and who attempts to live up to the standard which appears to be set for a Superior Court Judge, cannot do it—I say cannot do it and live within the income which has been set by the Dominion of Canada. That is the part of it—the need.

Another way of looking at this question of salary is, what do other countries pay? What does Great Britain pay? What do the other colonies and commonwealths of Great Britain pay?

The CHAIRMAN: Is that not covered by the memorandum of the Canadian Bar Association?

The WITNESS: That is covered completely by the memorandum of the Canadian Bar Association, and I do not think it is necessary that I should go into the details in that respect. In fact, it has been referred to by the Court judges here to-day at some length. At any rate, it is completely covered by the memorandum of the association, and I assume will be completely put before the committee and stressed when the Committee of the Bar Association presents the case.

By Hon. Mr. Lapointe:

Q. You said that the Judges of the Superior Court in Saskatchewan were leaders of the bar when they were appointed. Would you indicate the average revenue of a leader of the bar at Regina, say, and other places?—A. I can tell you of my own case. When I went on the bench eighteen years ago I was earning from my office between \$10,000 and \$12,000 a year, as well as a little on the side from some other operations.

By Mr. Ladner:

Q. What would be the earnings of a leader of the bar to-day?—A. You would have to go to the Income Tax Department to get that. I cannot tell you. Some of them have reasonably good incomes.

By Mr. Totzke:

Q. Is there any remuneration for a judge of the Superior Court aside from his salary from the Dominion of Canada?—A. Absolutely not.

[Chief Justice J. T. Brown.]

By Mr. Sanderson:

Q. Can you serve on a commission?—A. I served last year on a commission twelve months.

By Mr. Ladner:

Q. Did you receive any remuneration?—A. No remuneration. The statute is such that we are not allowed to accept remuneration. I would say that not only does the statute prevent us from accepting remuneration, but it is such that if we are asked to serve on a commission, we must serve; it says we "shall" serve.

By Mr. Hay:

Q. You have now covered all of the Dominion of Canada. Will it be a fair question to ask you if you felt, in your travels about and meeting with the Superior Court judges from time to time, that it would be fair to them, as with the County Court judges, to ask them to retire at seventy-five?—A. At twenty-five years of age?

Q. Yes.—A. I think most of them will be ready to retire at seventy-five. I, personally, will be ready to retire at seventy-five.

By Mr. Totzke:

Q. There is no provision for that for the Superior Court judges?—A. Not in the provinces.

Hon. Mr. LAPOINTE: If they have to retire it is on account of illness or incapacity to work.

The WITNESS: There is no age limit. I think it is beyond the powers of the Dominion Parliament to fix an age limit.

Mr. HAY: No. We asked the Minister about that this morning and he said yes.

Hon. Mr. LAPOINTE: Not for the High Courts in the provinces; we would have to amend the British North America Act.

Mr. HAY: We asked you this morning, and you said yes.

Hon. Mr. LAPOINTE: I thought you meant the County Court judges.

The WITNESS: For the County Court judges that is so.

Mr. HAY: Let us understand that. Unless we can amend the British North America Act—

Hon. Mr. LAPOINTE: We cannot force the High Court judges to retire. We can for the Supreme Court of Canada and for the Exchequer Court of Canada, because those are our own courts, but for the High Courts in the provinces we cannot force the judges to retire.

Mr. LADNER: You could provide for pensions for the High Court Judges in the event of a judge deciding to retire?

Hon. Mr. LAPOINTE: Yes, that could be done.

Mr. LADNER: Could you give us any idea of the salaries paid to those occupying important positions in commercial institutions or in businesses in the world of trade and commerce?

The CHAIRMAN: In Saskatchewan.

The WITNESS: Mr. Ladner, I had very little time to prepare a brief for this occasion, and I am not prepared to give statistics as to the general commercial world, except in a very general sense—

Mr. DUFF: That is hardly a fair question.

[Chief Justice J. T. Brown.]

The WITNESS: —to say that men serving in high offices in the commercial world get salaries much higher than Superior Court Judges. That statement can be made and cannot be challenged. However, those statistics can be secured, but immediately I was delegated to appear before this Committee. I got in touch with an officer of the Wheat Pool, that great grain growers' organization in the west, in the city of Regina, because it has been stated, so I have heard, that the farmers of this country are opposed to high salaries, and are opposed to increases in the salaries of judges. I myself never have felt that it was so; I have always felt—and I have been associated with the farmers and grain growers of western Canada for thirty years—that the farmers and the grain growers were of broad enough vision and far sighted enough to see the necessity of paying liberal salaries to men who had attained to high office. That is another basis upon which this matter should be considered. A Superior Court Judge is a man who has attained to the highest office in his profession. I say it is a laudible ambition for any man—I do not care what his vocation may be—to endeavour to attain to the highest post in his profession or vocation, whatever that may be, and in the business walks of life if a man succeeds through ability, hard work, enterprise and application in meriting promotion to the highest post or posts in that particular vocation of life, he is rewarded financially as well as otherwise. Of course, the greatest reward is the service that the position affords him to give to his country, but with that service and with the promotion I think the experience of the commercial world in all walks of life—that the man himself is also remunerated accordingly. If that is sound economic principle if that is sound practice—and I say it generally prevails—then I thought I was justified in getting these statistics with reference to the great grain grower organization of the Dominion of Canada. I refer to the great Wheat Pool. So I obtained these statistics for the benefit of this Committee, for whatever the may be worth. Of course these do not cover the whole field; they only cover such as I could get.

In Regina alone there are ten elevator superintendents whose experience has simply been in the first place buying grain in the country elevators, then appointed superintendents over a certain number of elevators, and now over certain districts. These ten superintendents in Regina get a salary of \$7,000 each. The treasurer of the Wheat Pool, and Mr. Carmichael will know whether or not my—

Mr. CARMICHAEL: I would like you to start with the president of that organization.

The WITNESS: I am going upwards; I am starting at the bottom. The treasurer of that organization at Regina, Mr. Reid, gets \$10,000. The vice-president of the United Grain Growers gets \$13,000—

By Miss Macphail:

Q. The elevator men belong to the pool or to the grain growers?—A. The vice-president of the Grain Growers, Mr. Rice-Jones, gets \$13,000. I am giving you what the Grain Growers pay for servants who have attained to high office.

Q. You called it the Pool to begin with?—A. That is right, Miss Macphail; there is that distinction.

Q. They are two totally different organizations?—A. I am designating as clearly as I can the principal organizations. The manager of the United Grain Growers, Mr. Murray, gets \$15,000. The president of the United Grain Growers gets \$18,000, as such, and \$5,000 extra, as manager of the Export Company, making \$23,000 in all.

Q. His name?—A. Mr. Crerar. The manager of the Alberta Pacific at Calgary, Mr. Ruddell—who previously lived in Regina—gets \$20,000, and I was informed that the salary had been increased recently, but I am not sure

(Chief Justice J. T. Brown.)

hat. Twenty thousand is the minimum salary he receives. The manager of the Wheat Pool of Saskatchewan gets \$12,000. The manager of the Pool of Farmers in Saskatchewan gets \$15,000, and the sales manager of the Central Pool at Winnipeg gets \$27,000.

Q. I have heard Mr. Crerar say many times that he could not save money, his salary is apparently not high enough. I heard him say in the House of Commons—possibly not on the floor of the House of Commons, but to us in this House—that he could not save any money.

Mr. LADNER: He was only getting \$4,000 then.

By Mr. Carmichael:

Q. You did not touch President Macphail's salary?—A. I think so. Anything I have said is within the mark. The point I am trying to make is—and I make it as a credit to the farmers of this country and in contradiction of the statements which have been made with reference to the farmers of this country, that they pay salaries worthy of the men who have attained to high office in their organization.

By Mr. Boys:

Q. You say your figures are "within the mark"?—A. Yes.

Q. I take it for granted that they are absolutely correct.—A. I told you what I had done; I got them from an officer of the Wheat Pool in Regina.

Q. Who was that?—A. Does the Committee wish the name.

Several Hon. MEMBERS: No.

Mr. DUFF: We accept His Lordship's statement.

The WITNESS: I can give the name of the officer.

Mr. BOYS: I would not have you think for a moment I was doubting you, I wanted to be sure that we could rely on these figures as being accurate.

Hon. Mr. LAPOINTE: These figures will be made public and can be checked.

The WITNESS: They can be verified.

Mr. LADNER: I understood that Mr. Justice Brown when he spoke of figures being "within the mark" was replying to Mr. Carmichael's request in regard to president Macphail.

Mr. CARMICHAEL: I am rather disappointed that Mr. Justice Brown did not include in that list the most important man of all, the head of that great Grain Growers' organization.

The WITNESS: I think I mentioned him.

Miss MACPHAIL: You did not give his name.

The WITNESS: No, that is right. I have not got him. You see, Mr. Carmichael, I was rather hurried in securing the information I did secure.

By Miss Macphail:

Q. How do the salaries paid by the Wheat Pool and the Grain Growers' Company compare with other businesses of like magnitude?—A. That is something I cannot speak of.

Q. Do you call the legal work a profession or business?—A. We call it a profession.

Q. How do the salaries compare with other professional salaries?—A. Do you mean medical men, the earning power of medical men?

Q. Medical men, professors, and ministers.—A. I would say that it was much lower than the average earnings of medical men. It is much lower than the earnings of the leaders of the Bar in the legal profession.

[Chief Justice J. T. Brown.]

Q. You are taking medicine and law, which are two highly paid professions.

Hon. Mr. LAPOINTE: We are dealing with the law.

By Miss Macphail:

Q. How do they compare with the other professions?—A. I think, referred to the ministerial profession this morning. I wish we could start movement to increase the salaries of the ministerial profession.

Q. I am not saying that I want them to get more or less, but you were making a comparison with the salaries paid in the business world. I would like you to compare the salary with those paid in other professions.—A. I have named the professions. If you have any other profession that you want to mention—

Q. I know the names of them, but I want to know their salaries; university professors, for instance?—A. The men who attain the highest office at a University are men who are getting at least \$10,000.

By the Chairman:

Q. That would be only the Presidents?—A. The Presidents, yes.

The CHAIRMAN: The law professors in the United States get a minimum of \$6,000.

Mr. BELL (Hamilton): Last year the Board of Columbia University announced, through Dr. Nicholas Murray Butler, its President, that hereafter no member of its teaching staff would receive less than \$7,500 per year.

The CHAIRMAN: Who had attained the rank of professor?

Mr. BELL (Hamilton): Quite so.

The WITNESS: I think there has been a marked advance in the salary paid to the professors in our educational institutions, both in Canada and the United States, and particularly in the United States.

By Mr. Carmichael:

Q. I do not know whether you would care to answer this question or not, as it may not be altogether relevant in regard to salaries. I am not particularly interested myself in politics or political parties, but the Judges are appointed by political parties. The question I was going to ask, and on which I would like to have your opinion, if you can give it, was whether it would be advisable to have all appointees to judgeships first recommended by the Canadian Bar Association before any appointment is made.

The CHAIRMAN: I think that is a little out of our jurisdiction.

The WITNESS: That is a big question, Mr. Carmichael. Out of my experience, I can say this; that the Minister of Justice, who is the man responsible in that respect, has, in the past, been fairly careful as to appointees to the Bench. I think that all Ministers of Justice have felt that that was a great responsibility, and they have taken wise precautions before making recommendations for such appointments.

By Mr. Carmichael:

Q. The Chairman has intimated that this is perhaps a little out of order, but I have a case in mind where a Judge indulged in something which was not honourable to the Bench, and I thought that it might be an extra precaution?—A. With the Provincial Bar Association, that might be so.

[Chief Justice J. T. Brown.]

By Mr. Duff:

Q. There are exceptions to every rule?—A. Quite so, and the exception, perhaps, proves the rule. I think in Canada we may say that the exception does prove the rule. I was recently at Rochester, and I had the opportunity there speaking with a number of the leading men of the United States. Naturally, I talked shop, and we discussed the judiciary and the Administration of Justice in the United States.

By Mr. Hay:

Q. And the fees that the doctor was going to charge you?—A. I found the doctors very reasonable, and I have no complaint to make about the fees that were charged me at Rochester. I will say this, though, that the doctor, when I fixed my fee, said, "We know that the Judges are not highly paid men, and I charge accordingly."

Hon. Mr. LAPOINTE: I had the same experience.

The WITNESS: So that I was delighted, for the moment, that I was not a highly paid man. But what I wanted to say was this: that apart from the Supreme Court of the United States, in which the people of that country have absolute confidence, and the Courts of several of the States, I was mighty thankful to be able to say that the people of Canada had confidence in the administration of Justice. If we have not got everything in this country, we at least have at much more than they have across the line.

By Mr. Sanderson:

Q. I understood you to say that you have been on the Bench for eighteen years?—A. Yes, I have.

Q. And that your income from your practice, when you took the position of Judge, was between ten and eleven thousand dollars?—A. Ten or twelve thousand dollars, with a little more on the side.

Q. At what salary did you start as a Superior Court Judge?—A. At \$6,000, I remember right; or \$7,000 I have just forgotten.

Q. How many increases have been made since then?

The CHAIRMAN: One.

By Mr. Sanderson:

Q. Just one?—A. I think that is right. As Chief Justice I get \$10,000.

Q. If you were to send in your resignation to-morrow, what pension would you receive?—A. After fifteen years' service, I could retire to-morrow with a two-thirds pension.

By Hon. Mr. Lapointe:

Q. Because you were appointed before that last Statute?—A. Because I was appointed before 1920. In 1920 the Statute was passed changing that. I am one of the favoured old appointees, and I could retire to-morrow, if I liked, on two-thirds salary. Any man that has been appointed since 1920 cannot retire without the permission of the Government.

By Mr. Sanderson:

Q. Do you make any contribution to this pension fund from your salary?—A. No, but if I died to-day my family are not protected by any pension allowance. I have got to protect my family by insurance, just the same as most people have to. There are many occupations in the Government service where the family is taken care of, but not a Judge; he has got to look after that through insurance. I wish to thank you very much for your very patient hearing.

Witness retired.

Hon. Mr. Justice MACDONALD, called.

The WITNESS: Mr. Chairman, and hon. members of the Committee; I agree in toto with the remarks of the Chief Justice. I wish to say that we thank the Committee for the kind and courteous invitation to appear before you to present our views.

I, like him, have made no special preparation for the presentation of the case before you, because we were content to leave that matter entirely to the Committee of the Canadian Bar Association. We, however, thought it proper to reciprocate your invitation by appearing before you, and placing ourselves at your disposal, and inviting you to ask us for any information which was our power to give. That is the attitude that I take here, and I do not wish to make any presentation of the case, except to say that I fully agree with the facts set before this Committee by the Chief Justice.

I even have an exception to prove the rule. The Chief Justice, in presenting his case, spoke generally in saying that the present occupants of the Bench of the Superior Court had been able to accumulate some assets from the practice of their profession. Frankly, I was not in that fortunate position. I took my seat on the Bench without any tangible assets, and fortunately without any pressing liabilities.

By Mr. Duff:

Q. You were a young man?—A. I was a young man. So that, from the time until now I have had as my only source of revenue my income as a Judge of the Court.

By Mr. Ladner:

Q. How long have you been on the Bench?—A. Ten years, being appointed in 1918. When I came to the Bench I had no outside resources, and no debt that I had to pay on the instalment plan. I have only one child and one wife and live modestly, as the Chief Justice can testify to. I do not speculate on the Grain Exchange, nor do I gamble, unless playing for a tenth of a cent a point at Bridge or gambling, and I still find it difficult to make both ends meet. I have to make them meet because I have no other source of income. I am presenting my personal position, more to emphasize the position of my brother Judges who have larger families and, therefore, larger financial responsibilities.

I do not know that there is any other phase of the case that I wish to present before you. However, I am here at your disposal, and I am not only willing, but I shall be pleased to give any facts which I may have in my possession.

Witness retired.

Hon. Mr. LAPOINTE: Mr. Justice Dysart, from Manitoba, is here. Perhaps he would like to say a few words.

Hon. Mr. Justice DYSART: Mr. Chairman, Hon. Mr. Lapointe and members of the Committee: I want to explain just in one word why I am here. The invitation that came out was interpreted in different ways even in my own province, and the members of my own Court (Court of King's Bench) thought that there was a desire on your part to have us at least here to supply any information you might want, otherwise we would have left the matter in the hands of the Committee and of the Dominion Parliament.

In dealing with this matter, I have very little to say, because, as I understand the situation, there are two aspects to it. In noting the debate in the

[Mr. Justice A. K. Dysart.]

se of Commons, I was impressed by this feature of it, that the future of the h was more to be considered than the present incumbents. The question ecreasing the calibre or raising the standard of the Bench for the future is matter, of course, and I think many of the Judges would be modest enough ay that perhaps there is some good reason for it. But be that as it may, is a matter of policy on the part of the government of the country, and we e nothing to say on that score.

As to the present incumbents, this situation occurs. I do not think the imittee want us to go into our personal budgets, and unless I were driven t, personally I would not do so.

Mr. DUFF: Quite right.

The WITNESS: I think this might be pointed out, Mr. Chairman. About 3 or 1907—I have forgotten the year—salaries were upon a certain basis \$7,000. Between 1906 or 1907 and 1913 the general wages earned through- Canada, as reported by the various Blue Books and statistics increased ut 25 per cent, and the cost of living, roughly, about the same. That will given more in detail in some of the documents filed by the Department this ming. During that period from 1907 to 1913 general salaries increased ut 25 per cent. Judges' salaries remained stationary. From 1913 to 1920 cost of living, due to war conditions, bounded up about 80 or 90 per cent to peak. General salaries went up slightly and finally reached the peak. ring that period the Judges' salaries remained stationary, at the same old are, but at that time an increase was made of \$2,000, subject to income tax, ich would reduce it to about 25 per cent. If we had followed the general les of wages we would have attained what they attained in 1913. Since 20 we have on that scale increased about 25 per cent, while other salaries mped from 25 per cent up to double the 1907 level. They have fallen back ewhat since. This is only assuming that the 1907 basis was comparatively r. I do not think it was in the mind of anybody to conceive that the change the cost of living and the general increase in salaries which followed could ve been foreseen. That is something, however, which has taken place, and are, as far as I can see, a long way behind.

There is one other thing, that is, that the salaries are adjusted at long riods. There is no way, in the matter of Judges' salaries and the condition things, to follow any fluctuations that arise, and any adjustment that is made one that is made for a period of years. That is one reason why it should be vised at certain periods.

There is one other matter which has been mentioned here this morning or is afternoon, which I will ask our own Judges to refer to. Something was id in the Senate the other day, in answer to a question about the Judges of anitoba, defining the power of Parliament, because they interpreted the law a certain way. Someone added that they were getting a great many more bitrations. I want to say this, that a good many arbitrations are com- lsorily undertaken by the Judges. So far as we are concerned, the only medy for us would be to withhold compensation, and the Act practically vers that. It has been interpreted sometimes in one way and sometimes in other. There are many matters Judges have to take up by way of arbi- ation. If there is an arbitration the point of any increase in salary, or any- ing that might be done with the question of salary, might be taken into ccount, and if there is any doubt, the Judges of our Court at any rate would elcome clearing the matter up, so that any compensation that is provided will over and exclude the question of any remuneration from arbitrations. We o not like the idea that there is something there which exists largely in name ut which is nothing in substances. The whole matter of salaries should be ealt with explicitly, and any remuneration of that sort should be excluded.

[Mr. Justice A. K. Dysart.]

I am not going to mention anything about the duties of the Judges, I could confirm, if I thought it beneficial, the statement made that some of the Judges—I will not mention any names—in our own province in recent years have died leaving their families in very destitute circumstances, and unable to do otherwise.

There was one other matter. Some comparisons have been made with compensation paid to men in business. I happen to know a number of departmental managers who draw salaries larger than ours, and bonuses by way of salaries amounting to as much again. In the city of Winnipeg I could name many such men. I have been told this by men in business, in one case particularly by the widow of one of the men, who was in a position to give the information, and these men draw revenues from their businesses as large as \$25,000 a year as departmental managers. I only give this because comparative salaries were mentioned.

By Mr. Ladner:

Q. Are those managers of large departmental stores?—A. Managers of departmental stores.

By Mr. Boys:

Q. Assuming that it is the desire of any government to secure men of standing, not at the top but nearly at the top of their profession in their respective provinces, would you say a salary of \$12,000 would prove attractive to-day? I would say this, that the tendency would be more so than at present. You would have to deal with each individual case, and it is hard to generalize, but the tendency would be that way.

Q. To put my question in another way, would you care to give any information as to what you think, excluding the first three or four leaders of the Bar in your province who have perhaps large and special retainers and so on, and taking the next ten, would you care to give the Committee any information as to what their average income is?—A. I can give you the substance of a personal conversation I had with a leading member of the Bar of Manitoba, who by no means earns the largest income; he told me that he would like very much to go on the Bench, but at the present salaries he would not, but if the salary reached \$12,000 he thought he would very much like to go on the Bench. He is a man of outstanding ability.

Q. But not in receipt of the largest income?—A. Not by any means the largest, but his income is \$15,000 to \$18,000. He would be willing to forego a part, but he could not, he thinks, take it in his present condition and with the present salary. Undoubtedly the tendency would be that way. That is a matter, of course, for the future of the Bench, which we probably have no right to deal with. I might just say here that I understand your Committee meets again. If it is your desire to get information that may not have been furnished already, any specific information, we will be glad to furnish it if we can, and if there is anything you think you might like, we might make some little effort to obtain it during your recess.

I thank you very much, Mr. Chairman, for this opportunity of addressing you.

The CHAIRMAN: We appreciate the attendance of the Judges. Is it the wish of the Committee that these Judges should be now discharged?

(Agreed to.)

(Witness retired.)

The Committee adjourned until Wednesday, May 2nd, at 10 o'clock a.m.

ADDENDA No. 1

JUDGES' SALARIES

REPORT OF JUDGE STUBBS ON DEPUTATION OF COUNTY AND DISTRICT COURT JUDGES TO THE GOVERNMENT OF CANADA ON INCREASE OF JUDICIAL SALARIES

FOREWORD

The Government is being asked to increase the salaries of the Judges of Canada. Judges are public servants whose salaries are paid by the people of Canada. The people should therefore know the facts in connection with them; they particularly should the representatives of the people in Parliament know them. This report presents the attitude and viewpoint of the County and District Court Judges on this important question, and contains facts and information which the public should know. It is for that reason that it has been thought desirable to publish it in pamphlet form.

The position taken by the County and District Court Judges is that all judicial salaries in Canada are inadequate and need upward revision, but more particularly their own. Owing to the increased cost of living and the decreased value of money, the actual fact is that the judges of Canada were never so poorly paid as they are to-day. This condition necessarily affects most seriously the lowest paid judges; namely, the County and District Court Judges.

Judges render most important and valuable public services; they perform the most momentous duties of citizenship; they are set aside for such services and duties, precluded from engaging in any other remunerative occupation or business, and required to devote themselves exclusively to such judicial work. They ought, therefore, to be adequately remunerated; but they are not, and never have been in Canada. We feel sure that the people of Canada do not want their Judges to be underpaid; that when they understand the situation they will appreciate the merits and justice of our cause, and will be fully prepared to support, through their representatives in Parliament, a fair, reasonable, and justly proportioned increase in the judicial salaries of Canada. It is with that hope and object that this pamphlet is issued.

L. ST. G. S.

WINNIPEG, Manitoba, March, 1928.

*Report of Judge Stubbs on Deputation of County and District Court Judges to
the Government of Canada on Increase of Judicial Salaries*

the Judges of the County Courts,
Province of Manitoba.

GENTLEMEN,—As your delegate on the deputation to the Government of Canada in connection with the proposed upward revision of judicial salaries, I beg to submit the following report:

All the provinces were represented on the deputation, except Prince Edward Island, whose delegate, Judge Fraser, through an unfortunate mistake over the date of our meeting with the Government, was unable to be present. He was only informed by wire from Ottawa that the meeting was on the 19th January, instead of the 16th. He discovered the mistake on his way to Ottawa, and, being too late to reach Ottawa in time, returned home.

The personnel of the deputation was as follows:—

Alberta—Judge Jackson, Lethbridge.

British Columbia—Judge Constantineau, Ottawa.

Manitoba—Judge Stubbs, Winnipeg.

New Brunswick—Judge Barry, St. John.

Nova Scotia—Judge Crowe, Sydney.

Ontario—Judge Huycke, Peterborough; Judge Hardy, Brantford.

Saskatchewan—Judge Ouseley, Moose Jaw.

British Columbia sent no personal representative, but delegated Judge Constantineau, of Ottawa, to represent her on the deputation, which he did very creditably. He has been on the bench for twenty-eight years, and has always taken a great interest in this question. Years ago he published an informative brochure on the subject of judicial salaries, which dealt particularly with the situation in Ontario.

The following members of the Government received the deputation:—

Prime Minister, Mr. King.

Minister of Justice, Mr. Lapointe.

Minister of Finance, Mr. Robb.

Minister of the Interior, Mr. Stewart.

Minister of Agriculture, Mr. Motherwell.

Minister of Marine, Mr. Cardin.

Minister of Railways, Mr. Dunning.

Minister of Public Works, Mr. Elliott.

Minister of Defence, Mr. Ralston.

Minister of Customs, Mr. Euler.

Minister of Immigration, Mr. Forke.

The six Toronto County Court Judges, who are the Judges of the County of York, sent Judge O'Connell to Ottawa to represent them. Although they have all signed our Memorial to the Government, which has been signed by every County and District Court Judge in Canada (with the exception of one gentleman in Ontario, who is about to retire, and for that reason did not wish to sign it), they took the stand that they could not support an application for uniform salary for County Court Judges, as they considered that, owing to the high cost of living and the large volume of work done, the Judges in Toronto or at least in large centres of population where similar conditions obtain, should be paid a larger salary than those in smaller cities or rural districts. As we could not dissuade Judge O'Connell from this attitude, and he intimated that he would have to present the special viewpoint of the Toronto Judges, if he accompanied the deputation, in order to preserve harmony and present a united front in our ranks, we asked him not to join the deputation, and he did not attend with us.

Judge Huycke, who is the President of the Ontario County Court Judges Association, opened the presentation of our case. He introduced the subject generally in a very effective speech, and concluded by filing with the Minister of Justice the executed Memorials signed by the Judges of the different provinces. The main argument of our case was then made by me, followed by short pertinent speeches in turn from all of the other Judges on the deputation. The effort of Judge Constantineau was particularly humorous, and seemed to amuse and please the members of the Cabinet greatly.

The whole presentation of our case was an elaboration of the arguments, facts and representations contained in our Memorial, a copy of which I had previously sent to every member of the Cabinet. We reviewed the situation which led up to and made necessary the organization of the County and District Court

ges of Canada to promote and protect their special interests, while at the same time urging the upward revision of all judicial salaries of Canada. We noted that last winter there had been a movement among the judges of the Superior Courts of some of the provinces to increase their own salaries by \$1000 without any thought of or consideration for the Judges of the Inferior Courts, that is, the County and District Courts; that this movement received support and endorsement of the Benches of several of the provinces; that the executives and committees of the Canadian Bar Association in their recommendations and resolutions discriminated against the Judges of the Inferior Courts and differentiated too strongly in favour of the Judges of the Superior Courts. In other words, that the Judges of the Superior Courts and the Governing Bodies of the legal profession of Canada apparently take much too literally the terms "Superior" and "Inferior" as applied to the Courts and Judges of Canada; and that, as we considered our interests were being neglected and overlooked in this vital matter of judicial salaries, we decided that Providence would help those who helped themselves, and concluded that there was nothing left for us to do but to organize to look after our own interests, and to take such measures and to carry on such propaganda as we thought could and would best advance them.

In order to illustrate this neglect of the Judges of the Inferior Courts, I append copy of a resolution passed by the Benchers of Manitoba, which was also passed by the Benchers of some of the other provinces:

To the Honourable The Prime Minister of Canada:

Whereas it appears to the Benchers of the Law Society of Manitoba that it is desirable and expedient that the salaries of the Judges of the Superior Courts of Canada and its several Provinces should be considerably increased and that it is fitting that this Society should make representations to that effect to the Dominion Government.

And whereas by reason of their position in the social life of the community, these Judges, in the interests of the administration of justice, especially in a country in which there are so many foreigners who should be taught to have a high appreciation of the majesty of the law, are rightly impelled to maintain a standard of living, much higher than their present salaries make possible.

And whereas quite recently the Senate and House of Representatives of the United States of America have considerably increased the salaries of the Judges of the Federal Courts of the United States of America.

And whereas as is shown by the attached memorandum the salaries of the Judges of the Superior Courts of Canada are very substantially below the salaries paid to the Judges holding the same positions in the sister Dominions, and to the Federal Judges of the United States:-

Be it therefore resolved that The Law Society of Manitoba respectfully recommends to the Prime Minister of Canada and the Minister of Justice that an increase of Three Thousand Dollars (\$3,000) per annum be made in the salaries of the Judges of the Supreme Court of Canada, the Exchequer Court of Canada and the Superior Courts of the various Provinces of Canada.

Copy of resolution of The Law Society of Manitoba, passed in meeting held the 28th day of January, 1927.

(Signed) E. ANDERSON, *President.*

(Signed) A. E. HOSKIN, *Treasurer.*

In justice to the Benchers of Manitoba, it must be stated that, when they were remonstrated with and their attention called to the fact that their resolution ignored the Judges of the County and District Courts, they expressed regret and passed a second resolution recommending in general terms an upward revision of all judicial salaries. But, as actions speak louder than words, the fact that they passed a resolution specifically recommending an increase of the salaries of the Judges of the Superior Courts and making no mention therein of the Judges of the County Courts indicates that they were not giving much thought and consideration to the latter.

The following report of the Committee on Judicial Salaries of the Canadian Bar Association, adopted in principle at the Convention at Toronto in August, shows the discrimination against the Judges of the County and District Courts and the strong differentiation in favour of the Judges of the Superior Courts:—

CANADIAN BAR ASSOCIATION

Report of Committee on Judicial Salaries

1. The Committee has considered the reports of the Conference Representatives of the Governing Bodies of the Legal Profession in Canada and of the governing bodies of the Legal Profession in the Provinces of Ontario, Manitoba, Alberta and New Brunswick relating to Judicial Salaries and after having given full consideration to the whole matter begs to report as follows:

2. The Committee has reached the conclusion that the salaries now paid to Judges of the Supreme Court of Canada, the Exchequer Court of Canada and the Superior Courts in the provinces are, having regard to the cost of living and the increasing financial demands on Judges, entirely inadequate. The Committee is of opinion that in the public interest the Judges of the Supreme Court of Canada should receive \$20,000 per annum and the Judges of the Exchequer Court of Canada and the Superior Courts of the Provinces \$15,000 per annum, with a reasonable additional allowance to the Chief Justices in such Courts.

3. The Committee is much impressed by the need for an increase in salary to Judges of the County and District Courts but is unable to recommend a uniform increase. It is of opinion, however, that the Judges of those Courts in the large centres of population where the cost of living is high and the volume of work great should be increased to \$9,000 per annum.

4. In connection with these proposed increases of Judicial salaries the Committee suggests that when adequate remuneration has been arranged the salary paid should cover all services and that payment for special services under Statutes otherwise should be discontinued.

5. The Committee is convinced that a substantial reduction in the number of Judicial positions might be made with great advantage to the administration of Justice and strongly urges that the Dominion and Provincial Governments co-operate to that end.

TWO MAIN POINTS OF CASE

In the presentation of our case, while urging the upward revision of all judicial salaries, we stressed particularly the two main propositions of our Memorial, namely: *that the County and District Court Judges ought to be paid three-fourths of the salaries paid to the Superior Court Judges, and that the minimum salary paid by the Dominion Government to any Judge ought to be \$9,000 per annum.* These were our two chief submissions, and the members of the Cabinet who heard them were evidently very much impressed with them and appeared to be sympathetic towards them.

TOO GREAT DISPARITY IN SALARIES

In dealing with the question of the disparity between the present salaries paid to the Superior Court Judges and the County and District Court Judges, \$4,000 and \$5,000 respectively, the former nearly double the latter, we showed that at Confederation the disparity was much less. The following are the salaries which were then paid the different Judges of the respective provinces:

QUEBEC

In Quebec there were and are no County Court Judges. The Superior Court Judges in the cities were paid \$4,000; those in the rural districts received \$2,000, and some as low as \$2,800.

To-day the lowest paid Judges in Quebec, appointed and paid by the Dominion Government, are the Circuit Court Judges of Montreal who are paid \$7,000, and have only a civil jurisdiction up to \$100.

ONTARIO

At Confederation the Superior Court judges were paid \$4,000 and the County Court judges \$2,600.

NOVA SCOTIA

Chief Justice, Superior Court.. . . .	\$3,200
Puisne Judges, Superior Court.. . . .	2,800
County Court Judges.. . . .	2,000

NEW BRUNSWICK

Chief Justice, Superior Court.. . . .	\$2,800
Puisne Judges, Superior Court.. . . .	2,400
County Court Judges.. . . .	2,000

SALARIES OF DEPUTY MINISTERS

An interesting comparison can be made between the salaries then and now paid to Deputy Ministers. At Confederation all Deputies received \$2,600 except the Deputy Minister of Militia who was only paid \$2,200. Three Deputy Ministers now receive \$10,000 each, and the rest except four are paid \$8,000. The office and position of a County or District Court Judge is at least as important, as high, and as responsible as that of a Deputy Minister, and yet is not so considered in the matter of salary.

JURISDICTION OF COUNTY AND DISTRICT COURTS

At Confederation the County Court jurisdiction was very limited in amount and restricted in scope, and the Court relatively unimportant. In most of the provinces the jurisdiction was confined to debt, damage, and replevin, in no case exceeding \$200. To-day we witness a very marked change in increased jurisdiction and importance of the County Courts in all the provinces; probably the most marked being in British Columbia, where in actions for debt, damage and replevin the jurisdiction is \$1,000; in ejectment, \$2,500; trespass, and where the title to land comes in question, \$2,500; mining cases, a jurisdiction concurrent with the Supreme Court; mechanics' liens, exclusive jurisdiction regardless of amount; equitable matters, jurisdiction concurrent with the Supreme Court in all cases where the estate or fund does not exceed \$2,500. There is no provision frequently taken advantage of by litigants that where the parties agree any action may be tried in the County Court that can be tried

in the Supreme Court. In addition, the County Court Judges are Local Judges of the Supreme Court and have to hold Supreme Court Chambers in all registers where there is no resident Supreme Court Judge. And, as also in the other provinces, the County Court Judges have multifarious general duties imposed upon them under various statutes, both Dominion and Provincial, from which the Judges of the Superior Courts are exempt. Further, the County Courts of all the provinces have appellate jurisdiction in summary convictions, justices of the peace and magistrates; and most of the criminal work of all the provinces is now being disposed of in the County Court Judges Criminal Courts through what are called speedy trials.

While the jurisdiction of the County Courts in the other provinces is not quite so extensive as British Columbia, yet it has been substantially increased in amount and expanded in scope in all of them, until apparently that Manitoba is the lowest and most restricted of any of them. Several of the provinces have an unlimited jurisdiction where the parties agree to go to trial in the County Court.

SALARIES NOT INCREASED CORRESPONDINGLY WITH JURISDICTION

We pointed out to the Government that while the jurisdiction of the County and District Courts of all the provinces had been thus increased from time to time since Confederation yet the salaries of their Judges had not been correspondingly increased; that, on the other hand, the disparity between the salaries of the Superior Court Judges and the Inferior Court Judges had been steadily increased until now the former receive nearly double the latter; and that even increase the jurisdiction of the Inferior Courts meant a corresponding decrease in the work of the Superior Courts.

BULK OF JUDICIAL WORK IN COUNTY AND DISTRICT COURTS

We also pointed out to the Government that the records show that the County and District Courts of Canada are doing at least three-fourths of the judicial work of Canada, both civil and criminal; that, consequently, it was an eminently fair and reasonable proposition that the Judges of the County and District Courts should be paid three-fourths of the salaries of the Judges of the Superior Courts; that on no grounds could the present disparity be defended and justified; and that in order to observe and maintain the due and proper proportion between these salaries we ought now to be receiving \$6,750 per annum instead of \$5,000. We urged the Government to adopt this proportion of three to four as a basic principle and a fixed ratio in the system of judicial salaries of Canada for the future, so as to remove the present inequitable position of the Judges of the Inferior Courts in the matter of salaries.

CANADIAN BAR ASSOCIATION UNFAIR TO INFERIOR COURT JUDGES

In dealing with the Report of the Committee of the Canadian Bar Association above set out, we contrasted the solicitude displayed for the Judges of the Superior Courts with the cavalier treatment of the Judges of the County and District Courts. A definite recommendation of a \$15,000 salary for the former; unable to recommend a uniform increase for the latter; merely an expression of opinion, "that the Judges of those Courts in the large centres of population where the cost of living is high and the volume of work great should be increased to \$9,000 per annum." We are informed that the proposition is to recommend three classes of salaries for the Judges of the Inferior Courts graded according to population—\$6,000 for the Judges in rural districts, \$7,500 for the medium sized cities, and \$9,000 for the large cities. These proposals not

perpetuate the present disparity between salaries of the Judges of the Superior and Inferior Courts, but actually increase and aggravate it. The recommendation of a salary of \$15,000 for the Superior Court Judges under the present circumstances, an increase of \$6,000, is an absurd and impracticable proposition, and the very making of it is likely to do the whole cause more harm than good. No Government can be reasonably asked or expected to increase the salaries of any class of men from \$9,000 to \$15,000. The sum of \$12,000 would have been a fair, reasonable and practicable proposition. It may be said that the County Court Judges are asking for as proportionately large an increase from \$5,000 to \$9,000. In a sense that is true. But our submission is that our salaries ought now to be \$6,750 to put us in the proper proportion and relation to the Judges of the Superior Courts, that is, three-fourths of the salary of the Superior Court Judges, and that having first raised our salaries to that level, the same proportion of increase ought to be observed in all increases. Having established this basis (which ought to be done whether or not there be any further increase in judicial salaries), we submit that the County and District Court Judges ought then to be given a further increase of \$2,250 to bring their salaries up to \$9,000, and the Superior Court Judges ought to be given an increase of \$3,000 to bring their salaries up to \$12,000. We would further suggest that the Judges of the Supreme Court of Canada ought to be given an increase of \$3,000 to bring their salaries up to \$15,000; and that the Chief Justices of all of the Provinces ought to be given a reasonable additional allowance, say, \$1,000 per annum, except the Chief Justice of Canada, who ought to be given a larger personal allowance, say \$2,500 per annum.

UNIFORMITY OF SALARIES DESIRABLE AND URGED

In our submission to the Government we strenuously opposed any differentiation in County and District Court Judges' salaries and asked for a uniform salary for all, regardless of where they live or the work they do. We ask that the salary of a Judge be paid, irrespective of the individual circumstances or personal qualities or capacities of the incumbent. Just as soon as we begin to grade Judges and differentiate their salaries, serious difficulties arise. If the size of the place in which the Judge lives is to be a criterion, where is the line to be drawn? Ought the Judge in Winnipeg to be paid more than the Judge in Brandon, because he lives in Winnipeg and not in Brandon? Ought the Judge in Brandon to be paid more than the Judge in Morden, because Brandon is a larger place than Morden? If the cost of living is a criterion, how is it to be fixed and determined? Is the salary of a Judge, with a low cost of living to be paid as much as the married Judge, with a higher one? Is the married Judge without children to be paid as much as the married one with children? Is it proposed to make a special allowance to a Judge for each child he has, for each one adds to the cost of living? Is the married Judge whose children have grown up and are fending for themselves to be paid as much as the Judge whose children are still depending upon him? If the amount of work done by a Judge is to be a criterion, what is to be the standard, and how will it be set? Will he be paid according to the number of hours he works, or the number of cases he tries, or how will he be paid? These questions show the difficulties in the way of working out any such proposition. We view the proposed system of grading as degrading, unfair and unjust to those judges who are stationed at the less populous centres, and we know of no practicable and reasonable method of working it out. The same arguments advanced for the grading of the judges of the Inferior Courts apply equally to the Judges of the Superior Courts, and yet no one proposes to grade them. They do not all live in the same centres, and do not all do a large volume of work. In some provinces the Judges of the Inferior Courts have just as little to do as any rural County or District Court

Judge (they are not overworked in Manitoba). The principle of uniform salary was adopted in 1920, and we ask for it to be continued. In all cases it always be remembered that the whole time of every Judge is available and emptied for the duties and work of his office; and that the Judges Act provides that, "No Judge . . . shall engage in any occupation or business other than his judicial duties; but every such Judge shall devote himself exclusively to such judicial duties."

Another important argument against the present disparity between salaries of the Superior and Inferior Court Judges, and against grading salaries of the latter according to where they live, is that the bench of the Inferior Courts requires just as capable men as the bench of the Superior Courts. In the words of Lord Brougham, spoken in 1837: "Nothing is more crude than the notion that inferior courts require inferior judges." Many men of high personal characters and outstanding legal abilities cannot afford to accept appointment to the bench of the Inferior Courts at the present miserably inadequate salaries, and the bench is thus deprived of the services of such men who would make excellent Judges. Further, the County and District Court Judges set the standard for the judiciary in the public mind, for they are the only Judges the average citizen knows much about, or with whom he comes in personal contact. These Judges are accessible to the common people; and much of the work of the Inferior Courts is done directly with the Judges and not with court officials in the Superior Courts. The County or District Court Judge comes in contact with fifty or more persons for every one the Superior Court Judge comes in contact with. Consequently, it is just as necessary that the Judges of the Inferior Courts should be men of as strong personalities, as high characters, as good sense and sound judgment and as learned in the law, as the Judges of the Superior Courts. If, therefore, the qualifications for the two benches are the same, there can be no possible justification for the present disproportion in salaries paid to the Judges thereof; and it is frequently a mere matter of accident as to which bench a Judge is appointed to; e.g., Chief Justice Anglin of the Supreme Court of Canada once applied for a County Court Judgeship, which was fortunately for him, he did not get, for, in all probability had he got it, he would not now be filling the highest judicial office in Canada, but would be still on the County Court Bench.

COMPARISON OF CONDITIONS IN URBAN AND RURAL DISTRICTS

The County or District Court Judge in small cities or country districts is seriously disadvantaged in many respects, the chief perhaps being the lack of higher educational facilities for his children, and in some cases he hasn't even proper secondary educational facilities for them. In my own case, with six children all still dependent upon me and to be educated, I could not afford to send a Judge at any centre without a university, because I could not bear the expense of sending my children away to be educated. I have two now at the University of Manitoba, with a third to go next year, and others to follow later. I could not possibly give my children a university education, if I had to send them away from home to get it. Every Judge has a right to be paid a salary adequate to enable him to sufficiently allow him to properly rear and educate his children, and to live and maintain himself and his family decently and respectably in that station of life, unto which, as the Prayer Book says, God has been pleased to call him, as befits the dignity, honour, importance and work of his high office, and not to have to eke out an existence in a condition of genteel poverty as so many now have to do on the miserably inadequate salaries paid them. Consequently, we submit that the minimum salary the Dominion Government should pay to any Judge

ada is \$9,000 per annum. Owing to the increased cost of living and the reduced value of money, he cannot live on any less as a Judge should live, whether he live in city, town or village.

The argument that the cost of living is higher for the city Judge than the country Judge is overworked and exaggerated. Having lived in Winnipeg from 1908; in the Town of Birtle with a population of 600 or 700 from 1908 to 1922 and from 1922 again in Winnipeg, I know whereof I speak. Rent and the upkeep of a house is higher in the city; but the price of most lines of merchandise, such as groceries, canned goods, fruits, household equipment, is higher in the country than the city, and particularly is this so for clothing, hats and shoes, in fact, for all lines of wearing apparel. By taking advantage of the special sales in the large stores in the city very substantial savings are effected. On the whole, the experience of our household is that there is much difference between the cost of living in the city and the country, but, if anything, the difference is in favour of the city. Certainly, the cost of living for a country Judge is just as high as the city Judge, for he is the big fish in the little puddle, and he is the target for everybody to shoot at. He occupies a relatively more important and prominent position in his community, pays the penalty for it by being exposed to more numerous and more varied social demands upon him than his brother in the city. The latter is by no means exempt from such contributions, but he is not subjected to them to the same extent as the country Judge. Further, the city Judge, in so far as his social and domestic life is concerned, can live in a state of social seclusion and retirement, and, if he is a County Court Judge with a family, and dependent on his salary, that is the only style of life he can afford to live.

JUDGES UNABLE TO PROVIDE FOR DEPENDENTS

We further pointed out to the Government that there are no pensions for Judges' widows and that the present scale of salaries renders it impossible for us, certainly for those of us who have families with children, to make adequate provision and protection for our wives and families as it is our duty to make. The consequence is there are a number of Judges' widows to-day in Canada living in destitution and poverty, and several very pitiful cases have come to our attention. And if some of us were to die under present circumstances, our wives and families would be faced with the same wretched prospect. The condition of affairs is a scandal and disgrace to Canada.

To review all the arguments we presented to the Government in support of our case would make this report too lengthy, and there are some other matters to be dealt with in Part II of this report. Suffice it to say, we made a strong presentation of our case, and were very courteously and sympathetically received. We could not have asked for anything better in the way of a reception by the Government. The Minister of Justice announced that when Parliament opened a Royal Commission would be appointed to deal with the whole question of Judges' salaries and report to the Government, and he asked us to come back to Ottawa and make the same forceful presentation and clear exposition of our case to that Committee as we had done to the Cabinet, which we promised to do. We came away well satisfied with our reception, and feeling assured that we would receive a substantial increase in our salaries at the next session of Parlia-

PART II

On the afternoon of the 16th January, following our meeting with the Government, we had a further conference with Judge O'Connell. He proposed our deputation should go to Toronto to confer there with the six Toronto Judges, and, if possible, with the Ontario members of the Committee of the

Canadian Bar Association on Judges' Salaries. This we agreed to do, could be arranged. Judge O'Connell on his return to Toronto complete necessary arrangements, and Judges Huycke, Jackson, Ouseley and I proceeded to Toronto and foregathered there on Thursday, the 19th Jan. Unfortunately, the other members of our deputation were unable to accompany us.

Our Toronto brothers welcomed us royally. They entertained us at an excellent dinner at the Toronto Club, and after dinner we had a round conference, with the result that all differences between us vanished into thin air. After mutual argument and discussion they unanimously abandoned the position taken at Ottawa by Judge O'Connell, and declared themselves ready and willing to stand foursquare with us in all our demands and to co-operate loyally with us in our efforts to obtain them. This was a delightful outcome to our journey, and we expressed our thanks and gratitude to our Toronto brothers for the generous and fraternal spirit which they displayed.

Before proceeding further, I consider it necessary to make some explanation as to the situation in respect to Judges' Salaries and the Canadian Bar Association. In Part I of this report I have set out the Report of the Committee which had been working on this subject prior to the Toronto Convention. The Report proved quite controversial when presented to the Convention and elicited a great diversity of opinion. However, those in charge of the Report were determined to save it from amendment and change, if possible. By the unanimity was out of the question, the Report was disposed of by remitting it to a special committee in the following terms:—

The Chairman, Ladies and Gentlemen: The proposal is that a resolution that was read to you yesterday and re-read to-day should be adopted in terms, but the principle of it should be approved for the purpose of enabling a committee to be named by the President of the Canadian Bar Association to deal with the matter therein referred to with the Federal and Provincial authorities, especially having regard to the International Conference of Premiers about to take place, and that they have power to change and to modify in the light of the expressions of opinion which have been made by this gathering in detail. Can we unanimously agree to a committee thus appointed to deal with this matter in the light of the expressions of your opinion? (*Carried.*)

Sir JAMES AIKINS: Mr. Chairman, the responsibility was put on me of naming the members of the Standing Committee on Judges' Salaries. We must limit the number in some way, but I think the provinces of Quebec and Ontario should have greater representation than the other provinces.

I move that the following gentlemen be appointed members of the Standing Committee on Judges' Salaries:—

- Hon. Wallace Nesbitt, K.C., Toronto, Ont., Convener.
- Hon. N. W. Rowell, K.C., Toronto, Ont.
- W. N. Tilley, K.C., Toronto, Ont.
- J. H. Spence, K.C., Toronto, Ont.
- George F. Henderson, K.C., Ottawa, Ont.
- Nicol Jeffrey, K.C., Guelph, Ont.
- Eugene Lafleur, K.C., Montreal, Que.
- George H. Montgomery, K.C., Montreal, Que.
- Aime Geoffrion, K.C., Montreal, Que.
- L. St. Laurent, K.C., Quebec, Que.
- A. Savard, K.C., Quebec, Que.
- F. R. Taylor, K.C., St. John, N.B.
- J. F. H. Teed, St. John, N.B.

C. F. Sanford, K.C., St. John, N.B.
 J. McG. Stewart, Halifax, N.S.
 W. J. O'Hearn, K.C., Halifax, N.S.
 George J. Tweedy, Charlottetown, P.E.I.
 I. Pitblado, K.C., Winnipeg, Man.
 H. J. Symington, K.C., Winnipeg, Man.
 D. H. Laird, K.C., Winnipeg, Man.
 Douglas Thom, K.C., Regina, Sask.
 J. A. M. Patrick, K.C., Yorkton, Sask.
 Hon. R. B. Bennett, K.C., Calgary, Alta.
 H. H. Parlee, K.C., Edmonton, Alta.
 L. Crease, K.C., Victoria, B.C.
 H. G. Lawson, Victoria, B.C.

The CHAIRMAN: What is your pleasure, gentlemen? (*Carried.*)

Sir JAMES AIKINS: Then in order to deal with matters that may require attention before the Committee meets, I move that the members of the Committee from the provinces of Quebec and Ontario constitute an executive committee with authority to take such action as may be desirable pending a meeting of the Committee.

The Hon. R. B. BENNETT, P.C., K.C.: I second that motion.

The CHAIRMAN: It has been moved by Sir James Aikins and seconded by the Hon. R. B. Bennett:—

"That the members of the Committee from the provinces of Quebec and Ontario constitute an executive committee with authority to take such action as may be desirable or necessary pending a meeting of the Committee." (*Carried.*)

That committee has not yet met in whole. The Quebec and Ontario members are constituted its executive. Of this executive the Toronto coterie appear to be the chief works. I had almost said the whole works. I understand a meeting of the Committee is scheduled to take place early in February, and an appointment to present their views to the Government has been arranged.

On Friday morning we met Messrs. Rowell and Tilley, they being the only members of the Committee available in Toronto. We were in conference with them for about two hours. We had a very frank discussion, during which we presented our position to them thoroughly. We pointed out to them the absurdity and impracticability of their recommendation in so far as the salaries of the Superior Court Judges are concerned, and asked them to modify and revise their Report in respect of the salaries of County and District Court Judges by recommending a uniform increase for them up to \$9,000. They took the view that the Report had been passed by the Convention and they had no authority or power to change or modify it, an opinion with which we do not agree, for in the motion above mentioned the Committee is given "power to change and to modify in the light of the expressions of opinion that have been made by this gathering in detail."

We do not know whether any practical good will come out of our conference with these gentlemen, or not; but we were glad of the opportunity to beard these lions in their den, as it were, and to present to them our views in this most important matter; and we hope we succeeded in giving them a truer perspective on the County and District Courts and their relative importance in the judicial system of Canada.

From information we have received from several quarters, we understand the Canadian Bar Committee is by no means agreed and united on the above report; in fact, several of them entertain the same views on it that we do.

We shall not be surprised, therefore, if the Report undergoes considerable modification and revision before it finally reaches the Government. We can only hope and trust that it will emerge more in accordance, both in letter and spirit, with our Memorial than it is at present.

The Judges attending on the deputation in Ottawa thought it advisable and desirable to take advantage of the occasion of our being together to form a Dominion-wide Association of the County and District Court Judges. Accordingly, we formed an organization to be known as the "Association of County and District Court Judges of Canada." Judge Huycke was appointed President; Judge Constantineau, Vice-President; and myself, Secretary. I cannot do more at this time than make bare mention of the organization of the Association. There is plenty of scope for it, and we hope it will prove its usefulness. Judge Huycke and myself are charged with the preparation of a short constitution for it. You will be further advised in that connection in due course.

In conclusion, let me say, we have every reason to hope for a successful outcome to our campaign for increased salaries. The battle is not yet won, but prospects for victory are bright, and you may rest assured that I shall continue my efforts until the victory has been won.

Fraternally submitted.

L. ST. G. STUBBS,

*Chairman of the Board of County
Court Judges of Manitoba.*

Winnipeg, Manitoba, January 25, 1928.

ADDENDA No. 1A

MEMORIAL TO MINISTER OF JUSTICE FROM COUNTY AND DISTRICT COURT JUDGES OF CANADA

Honourable, The Minister of Justice, Ottawa, Ont.

The County Court and District Court Judges of the Dominion of Canada do respectfully submit for consideration the following representations in support of the proposed upward revision of judicial salaries throughout the Dominion of Canada:

That the office of a Judge of any of the Courts of Canada is one of the most important and responsible in the state requiring special qualifications incumbent thereof; and, consequently, ought to be paid and remunerated in reasonable accordance and proportion to its importance, honour, dignity and qualifications, whereas the salaries paid to all the Judges of the several Courts of Canada are quite inadequate and disproportionate in the light of the above criteria.

That, despite the increase in judicial salaries from time to time, owing to the increased cost of living and the decreased value of money, statistics show that the Judges of Canada were never so poorly paid and were never so far off in purchasing power as they are to-day.

See Article, Judicial Salaries and Changing Dollar, Canadian Bar Review, 1926.)

3. That the increased cost of living and the decreased value of money will naturally affect most prejudicially those Judges who receive the lowest salaries, namely, the County Court and District Court judges.

4. That the great bulk of civil litigation in Canada is conducted in the County and District Courts, and much of it is scarcely less difficult and important than that carried on in the higher Courts. The volume of criminal work dealt with in the County and District Courts is also larger than that in the Superior Courts. The County and District Court judges have also multifarious general duties imposed upon them under various statutes, both Dominion and Provincial, from which the Judges of the other Courts are for the most part exempt. The figures for the year 1926 from the records of the Superior Courts and the County and District Courts of the various judicial districts of Canada show that fully eighty per cent of the writs issued out of the Courts of record in Canada are issued out of the County and District Courts and the same is true as to the trial of indictable offences, fully eighty per cent of these being tried in the County Court Judge's Criminal Courts.

5. That while the salaries of the County and District Court Judges were increased by one thousand dollars (and those of the Superior Court judges by two thousand dollars) in 1920, at the same time, however, certain pre-existing exemptions were taken away from the judges, particularly the right of exemption from any deduction on account of Dominion taxes. This and other deprivations made at that time fell more heavily upon the County and District Court Judges, and practically nullified the increase by taking away with one hand what had been given with the other.

6. Within recent years the jurisdiction of the County and District Courts in several of the provinces has been very materially increased, thus entailing an increased responsibility and imposing a greater volume of work upon the County

and District Court Judges, and relieving the Superior Court Judges to a proportionate extent, estimated to be at least twenty-five per cent of the total value of the civil work of the Superior Courts.

7. That in view of the above facts, and the fact that the cost of living and the value of the dollar is the same for the Judges of all the courts and they are all supposed to live and move and have their being on the same plane of life and in the same sphere of society, it is submitted that the present disparity between the salaries of the Judges of the Superior Courts at five thousand dollars and those of the Judges of the County and District Courts at five thousand dollars is too great and cannot fairly be supported and defended on the merits of the case.

8. It is submitted that the due and proper proportion between the salaries of the County and District Court Judges and those of the Superior Court Judges ought to be three to four, so that a County or District Court Judge would be paid three-fourths of the salary paid to a Superior Court judge. An adequate and duly proportionate judicial salary to all Judges throughout Canada will settle this perennial question, and remove those long-standing grievances and injustices arising from inadequate remuneration under which the whole body of Canada has suffered since Confederation.

9. That the salaries of the Federal Judges in the United States of America have recently been substantially increased, as shown by the following table:

United States Supreme Court from \$14,500 to \$20,000, with an additional \$500 for the Chief Justice.

Circuit Judges from \$8,500 to \$12,000.

District Judges from \$7,500 to \$10,000.

The lowest salary now paid in the United States to any Federal Judge is \$10,000 per annum. The Act to increase the salaries of the Federal Judges passed the House of Representatives on December 9 last by a vote of 299 to 39, it previously having passed the Senate by a vote of 64 to 8, and approved by the President on December 13, and is now law.

The movement to increase judicial salaries in the United States is general, and bills for that purpose are now pending in the legislatures of a large number of the States.

10. That during the past decade the salaries of most of the important public offices and responsible business positions, more particularly the latter, have been substantially increased, in keeping with the changed conditions of the times, so that to-day in the business world most of the important and responsible positions are much better paid than are even the highest judicial offices in Canada. The increases which have been made at long intervals in the judicial salaries have not corresponded with the general upward revision of salaries in all lines of commerce; nor to those paid in all branches of industry nor even to the wages paid to the unskilled workers.

11. The judges of Canada have the unenviable distinction of being the poorest paid in the British Commonwealth of Nations. Judicial salaries in Great Britain are on an average three times as large as those paid in Canada for the corresponding position. The salaries paid to the judges in the Crown Colonies are much higher than those paid to the judges in Canada, the same being the case in the Dominion in the Commonwealth. Much more generous pension provisions have also been made for the judges in all other parts of the Commonwealth than in Canada. Canada has been singularly fortunate in having jurists of high calibre and attainments who have been willing to accept judgeships at the meagre salaries paid to them—salaries less than a lawyer of ordinary ability frequently collects as his fee for handling a single case. Canada can afford to pay and ought to pay her judges salaries reasonably commensurate with their position and value.

12. While the scale of judicial salaries can never equal the highest emoluments of the legal profession, judges' salaries should, nevertheless, be such as to place the personnel of the bench in contentment and ease of mind and self-respect, and put every occupant of the bench beyond financial worry. More particularly, because no provision is made for the payment of pensions to judges' widows and families, and the present scale of salaries is not sufficient to allow them to make such adequate provision and protection for their wives and families as it is their duty to make. Many men of sterling personal characters and outstanding legal abilities cannot now afford to accept appointment as judges; and the bench is thus deprived of the services of men who would make excellent judges of the highest order.

The County and District Court judges respectfully submit the foregoing facts and representations with the hope that the Government of Canada will favourably consider them and take early action to effect a substantial upward revision of all judicial salaries throughout Canada; and would respectfully suggest that the minimum salary to be paid to any judge appointed by the Dominion Government should be nine thousand dollars per annum, with a graduated upward scale for the judges of the Superior Courts, so as to place them on a parity of salary with the judges of the Federal Courts in the United States of America, with reasonably substantial additional allowances for the Chief Justices of the courts of the respective provinces, and more particularly the Chief Justice of the Supreme Court of Canada.

Signed by the various County and District Court Judges of the Dominion of Canada this first day of September, A.D. 1927.

ADDENDA No. 2

OTTAWA, April 25, 1928.

773/28.

SIR,—Referring to your letter of the 19th instant, I send you herewith data for which you ask, together with some additional information which Honourable Mr. Lapointe tells me the Committee desires.

You will observe that the data regarding the jurisdiction of the Ontario courts is not included in the material now sent, but I hope to forward it during the course of the day.

Yours truly,

W. STUART EDWARDS,

“Eng.”

WALTER TODD, Esq.,

Chief Clerk, Committees and Private Bills Branch,
House of Commons, Ottawa.

ADDENDA No. 2a

OTTAWA, April 20, 1928.

MEMORANDUM RE PENSIONS OF JUDGES

The statutory provisions are contained in the Judges Act, R.S. 105, secs. 23 to 28 inclusive, and may be summarized as follows:—

Judges who may receive pension equal to one-third of salary:

A judge of a County Court or of the Circuit Court of Montreal who has become permanently disabled, and who has not attained the age of seventy, and has served for a period of less than 5 years. (Sec. 25.)

Judges who may be paid pension equal to two-thirds of salary:

Any judge of the Supreme Court of Canada or Exchequer Court of Canada, or of any Superior Court of Canada (including local Judges in Admiralty) who has been in office for 15 years or upwards, or who has become afflicted with a permanently disabling infirmity, and resigns his office. But no annuity to any such judge who was appointed after July 6, 1919, unless the Governor in Council decides that the resignation is in the public interest. (Sec. 23.)

Any judge of Supreme Court of Canada or Exchequer Court of Canada who was appointed before March 31, 1927, and attains the age of 75 years or has held such office for at least 10 years. (Sec. 24, ss. 2.)

Any judge of a County Court or of the Circuit Court of Montreal who becomes afflicted with a permanently disabling infirmity, or who resigns after holding office for at least 25 years. But no such annuity will be granted to any such judge who was appointed after July 6, 1919, unless the Governor in Council is of opinion that the resignation would be in the public interest. (Sec. 25.)

Any such judge who is appointed to a public office shall have his salary reduced by the amount of his pension. (Sec. 25, ss. 2.)

Judges who may receive pension equal to full salary:

Any judge of a County Court, or of the Circuit Court of Montreal who has attained the age of 75 years to be compulsorily retired and any judge of the above courts who has served for 30 years may resign, and in either case may receive pension equal to full salary. (Sec. 26.)

Any judge of the Supreme Court of Canada, Exchequer Court of Canada, or of any Superior Court appointed before July 1, 1920, may, if he has attained the age of 75 years and continued in office for 20 years, or if he has attained the age of 70 years and served for 25 years, or if he has served for 30 years, receive pension equal to the salary which he was receiving before July 1, 1920. (Sec. 24.)

OTTAWA, April 20, 1928.

MEMORANDUM RE JUDGES' SALARIES

The salaries are provided by the Judges Act, R.S. 105, Secs. 5 to 19.
The following is a statement comparing the present salaries with those when the last increase was granted:—

	Present Salary	Previous Salary
Supreme Court of Canada:		
Chief Justice	\$15,000 00	\$10,000 00
Puisne Judges (6)	12,000 00	9,000 00
Exchequer Court of Canada:		
President	10,000 00	8,000 00
Puisne Judge (1)	9,000 00	7,000 00
Local Judges in Admiralty:		
Quebec	1,000 00	1,000 00
Nova Scotia	1,000 00	1,000 00
New Brunswick	1,000 00	1,000 00
Prince Edward Island	800 00	800 00
British Columbia	1,000 00	1,000 00
Toronto	600 00	600 00
PROVINCIAL SUPERIOR COURTS		
Ontario:		
Chief Justice of Ontario	\$10,000 00	\$ 8,000 00
Chief Justice 2nd Divisional Ct.	10,000 00	8,000 00
Justices of Appeal (8)	9,000 00	7,000 00
Judges of High Court Division	9,000 00	7,000 00
Quebec:		
Chief Justice of King's Bench	10,000 00	8,000 00
Puisne Judges of King's Bench (11) ..	9,000 00	7,000 00
Chief Justice of Superior Ct.	10,000 00	8,000 00
Acting Chief Justice of Superior Ct. ..	10,000 00	8,000 00
Puisne Judges of Superior Ct. (35) ..	9,000 00	7,000 00
Nova Scotia:		
Chief Justice of Supreme Ct.	10,000 00	8,000 00
Judge in Equity	9,000 00	7,000 00
Puisne Judges (5)	9,000 00	7,000 00
Judge of Court of Divorce	500 00	500 00
New Brunswick:		
Chief Justice of New Brunswick	10,000 00	8,000 00
Puisne Judges of Appeal (2)	9,000 00	7,000 00
Chief Justice of K.B. Division	10,000 00	8,000 00
Puisne Judges of K.B. Division (3) ..	9,000 00	7,000 00
Judge of Court of Divorce	500 00	500 00
Manitoba:		
Chief Justice of Court Appeal	10,000 00	8,000 00
Puisne Judges of Court Appeal (4) ..	9,000 00	7,000 00
Chief Justice of King's Bench	10,000 00	8,000 00
Puisne Judges of King's Bench (5) ..	9,000 00	7,000 00
British Columbia:		
Chief Justice of Court Appeal	10,000 00	8,000 00
Justices of Appeal (4)	9,000 00	7,000 00
Chief Justice of Supreme Court	10,000 00	8,000 00
Puisne Judges of Supreme Court (5) ..	9,000 00	7,000 00
Prince Edward Island:		
Chief Justice Supreme Court	10,000 00	6,500 00
Assistant Judges (2)	9,000 00	5,500 00
Saskatchewan:		
Chief Justice of Saskatchewan	10,000 00	8,000 00
Puisne Judges of Court of Appeal (4) ..	9,000 00	7,000 00
Chief Justice of King's Bench	10,000 00	8,000 00
Puisne Judges of King's Bench (6) ..	9,000 00	7,000 00
Alberta:		
Chief Justice of Alberta	10,000 00	8,000 00
Justices of Appeal (4)	9,000 00	7,000 00
Chief Justice Trial Division	10,000 00	8,000 00
Judges of Supreme Court (5)	9,000 00	7,000 00
Yukon:		
Judge of Territorial Court	9,000 00	7,000 00
Living expenses of Judge of Territorial Ct.	3,000 00	5,000 00

COUNTY AND DISTRICT COURTS

		Present Salary	Previous Salary
Ontario	75	5,000 00	4,000
Nova Scotia	7		
New Brunswick	6		
Manitoba	9		
British Columbia	14		
Prince Edward Island	3		
Saskatchewan	18		
Alberta	12		

CIRCUIT COURT, MONTREAL

Senior Judges	\$ 8,000 00	\$ 6,000 00
Judges (3)	7,000 00	5,000 00

OTTAWA, April 21, 1928.

MEMORANDUM: INCREASES TO JUDGES' SALARIES SINCE
CONFEDERATION

By *Cap. XXXIII, 1868*, the salaries of Judges were fixed as follows:—

Ch. J. of Court of Queens Bench, Quebec	\$5,000 00
4 Puisne Judges of Queen's Bench, Quebec	4,000 00
Ch. J. of Superior Court	5,000 00
7 Puisne Judges of Superior Court	4,000 00
3 Puisne Judges of Superior Court	2,800 00
Ch. J. Court of Queens Bench, Ontario	5,000 00
2 Puisne Judges of Queens Bench, Ontario	4,000 00
Chancellor	5,000 00
2 Vice Chancellors	4,000 00
Ch. J. Court Common Pleas	5,000 00
2 Puisne Judges Common Pleas	4,000 00
County Court Judges, from \$1,800 to \$2,600	
Ch. J. Supreme Court, Nova Scotia	4,000 00
Judge in Equity	4,000 00
4 Asst. Judges, Supreme Court	3,200 00
Ch. J. Supreme Court, New Brunswick	4,000 00
4 Judges Supreme Court, New Brunswick	3,200 00
County Judges, from \$1,800 to \$2,600	

By *Cap. VIII, 1869*, the salaries of County Court Judges in Ontario and Brunswick were fixed at \$2,000, except in the Counties of York, Ontario, St. John, N.B., the judges of these counties to receive \$2,400.

By *Cap. 31, 1873*, the following changes were made:—

Ch. J., Court of Queens Bench, Quebec	\$5,000 to \$6,000
Puisne Judges of Queens Bench, Quebec	4,000 to 5,000
Ch. J., Superior Court, Quebec	5,000 to 6,000
10 Puisne Judges, Superior Court, Quebec	4,000 to 5,000
12 Puisne Judges, Superior Court, Quebec	2,800 to 4,000
3 Puisne Judges, Superior Court, Quebec	at 3,500

the Chief Justices in Ontario were also raised from \$5,000 to \$6,000, and Puisne Judges from \$4,000 to \$5,000. The Chief Justices in Nova Scotia, Manitoba and British Columbia were fixed at \$5,000 and the Puisne Judges \$4,000. Provision was also made that the salary of any junior judge of a county court shall be \$2,000.

By *Cap. 4, 1874*, the Chief Justice of Supreme Court of Prince Edward was given a salary of \$3,000, and the assistant judges \$2,500; and County Court Judges in that Province were to be given from \$1,000 to \$2,000 as fixed Order in Council.

By the *Supreme and Exchequer Court Act, 1875*, the salaries of the judges of those courts were established at \$8,000 for the Chief Justices and \$7,000 for Puisne Judges.

By Cap. 28, 1876, the salaries of County Court Judges in Nova Scotia fixed at \$2,000, but after 3 years service to be raised to \$2,400, the Judge of Halifax County being excepted, starting at \$2,400.

By Cap. 6, 1881, the salaries of the Supreme Court Judges of Prince Edward Island were raised to \$4,000 for the Chief Justice and \$3,200 for the Judges.

By Cap. 11, 1882, the salary of Judge of County Court, St. John, N.B. raised to \$3,000.

By Cap. 16, 1887, the salary of Judge of the Exchequer Court of Canada was fixed at \$6,000.

By Cap. 27, 1891, the salaries of local judges in admiralty were fixed as follows:—

District of Quebec	\$2,000
District of Nova Scotia	1,000
District of New Brunswick	1,000
District of Prince Edward Island	800
District of British Columbia	600
District of Toronto	600

By Cap. 38, 1895, the salaries of Judges of Circuit Court, Montreal, fixed at \$3,000, and the local Judge of B.C. Admiralty District was raised to \$1,000.

By Cap. 52, 1898, the salary of Yukon Territorial Judge was fixed at \$4,000. Salaries of County Court Judges generally established as \$2,000 on appointment, and \$2,400 after 3 years service, except Judges at Halifax and Charlottetown who receive \$3,000.

By Cap. 39, 1901, the salaries of Judges of Supreme Court of N.W.T. were fixed at \$5,000 for Chief Justice, and \$4,000 for Puisne Judges. Salaries of Circuit Court, Montreal, increased to \$3,600 for Senior Judge, \$3,000 for other Judges. Salaries of Judges of Yukon Territorial Court, raised to \$5,000.

By Cap. 31, 1905, salaries of Chief Justice of Supreme Court of Canada raised to \$10,000; Puisne Judges to \$9,000, and the Judge of the Exchequer Court to \$8,000.

The salaries of Chief Justices of the Superior Courts in Ontario and Quebec were raised from \$6,000 to \$8,000, and Puisne Judges from \$5,000 to \$7,000. In Nova Scotia, New Brunswick, Manitoba, British Columbia, and Northwest Territories, Chief Justices were raised from \$5,000 to \$7,000, and Puisne Judges from \$4,000 to \$6,000. In Prince Edward Island the Chief Justice was raised from \$4,000 to \$6,000, and the assistant Judges from \$3,200 to \$5,200.

The salaries of County Court Judges were raised to \$2,500 on appointment and \$3,000 after 3 years service except judge in York County, Ontario, St. John's, New Brunswick, and Queens County, P.E.I., who received \$3,500; the Judge of Halifax County, N.S., and the B.C. County Court Judges who receive \$3,000.

By Cap. 28, 1913, the salary of the Chief Justice of Appeal in British Columbia was raised from \$7,000 to \$8,000, and salaries of County and District Court Judges fixed at \$3,000; except those of York County, Ontario, Halifax, N.S., St. John, N.B., and Queens Co., P.E.I., who received \$3,500.

By Cap. 38, 1914, salaries of Circuit Court, Montreal, were raised from \$3,600 to \$5,000 for Senior Judge; and \$3,000 to \$4,500 for other Judges.

By Cap. 59, 1919, Assistant Judges of Exchequer Court of Canada were raised from \$6,000 to \$7,000. Salaries of Chief Justices of Nova Scotia, New Brunswick, Manitoba, British Columbia, Saskatchewan and Alberta were raised from \$7,000 to \$8,000: Puisne Judges from \$6,000 to \$7,000. In Prince Edward

the Chief Justice was raised from \$6,000 to \$6,500, and assistants from \$5,000 to \$5,500. The County and District Court Judges were fixed uniformly at \$5,000.

By *Cap. 56, 1920*, the following raises: Salaries of Chief Justice of Supreme Court of Canada \$10,000 to \$15,000; Puisne Judges \$9,000 to \$12,000; Exchequer Judge, President \$8,000 to \$10,000; Puisne Judge, \$7,000 to \$9,000. Salaries of Judges of Superior Courts in the provinces generally raised from \$8,000 to \$10,000; Chief Justices; \$7,000 to \$9,000 for Puisne Judges; Yukon Territorial Judge \$5,000 to \$7,000. County and District Court Judges raised from \$4,000 to \$5,000.

By *Cap. 56, 1923*, salaries of Judges of Circuit Court, Montreal: Salary of Chief Judge raised from \$6,000 to \$8,000, other judges \$5,500 to \$7,000.

OTTAWA, April 23, 1928.

JURISDICTION OF THE SUPERIOR COURT

PRINCE EDWARD ISLAND

Supreme Court Act, 1925, c. 7.

S. 10. The Supreme Court of Prince Edward Island shall continue to be a court of record, and subject to the provisions of this chapter, shall continue to exercise the jurisdiction, which at the time of the coming into force of this Act was vested in or capable of being exercised by such Court.

S. 11. The jurisdiction of the Supreme Court shall include the jurisdiction which immediately preceding the coming into force of this Act was vested in or capable of being exercised by all or any one or more of the Judges of the said Supreme Court of Prince Edward Island sitting in Court or Chambers or elsewhere when acting as Judges in pursuance of any statute or law and also all judicial powers, duties and authorities incident to any and every part of the jurisdiction aforesaid as well civil as criminal.

S. 12. Notwithstanding any thing in this Act contained, the Court of Chancery of this Province shall be and remain as at present constituted and shall continue to exercise the equitable and statutory jurisdiction at present exercised by or heretofore conferred upon it, and the provisions of the Chancery Act, 1910, and amendments together with the rules made thereunder shall be in full force and effect until repealed or annulled.

S. 13. For the purpose of removing doubts and ambiguity but not so as to restrict the scope of its jurisdiction, it is declared and enacted that the Court of Chancery as constituted at the passing of this Act shall have exclusive jurisdiction in the trial of causes and matters dealing substantively with

- (a) Fraud, mistake and accident;
- (b) In all matters relating to trusts, executors and administrators, co-partnerships and accounts, mortgages and awards, or to infants, idiots, or lunatics and their estates; partitions;
- (c) The staying of waste;
- (d) The compelling of the specific performance of agreements and contracts;
- (e) The compelling of the discovery of concealed papers, or evidence, or such as may be wrongfully withheld from the party claiming the benefit of the same;
- (f) The preventing of the multiplicity of actions or suits;

- (g) The decreeing of the issue of Letters Patent from the Crown to ful claimants;
- (h) The decreeing of the repealing and of the making void of I Patent issued erroneously or by mistake or improvidently or th fraud;
- (i) The granting of injunctions to stay waste in a proper case notwithstanding that the party in possession claims by an adverse legal title. Jurisdiction in Bankruptcy, R.S.C. c. 11, s. 152. Appellate jurisdiction under provincial statute.
—From conviction or order of a justice. Criminal Code Part s. 749.

OTTAWA, April 23, 1928

JURISDICTION OF COUNTY COURTS, PRINCE EDWARD ISLAND

Original—

- (a) All personal actions of debt, covenant, assumpsit and tort, where debt or damages claimed do not exceed the sum of one hundred fifty dollars.
- (b) Actions on bail bonds given to a sheriff in any case in a county whatever may be the penalty or amount sought to be recovered.
36 Victoria (P.E.I.), c. 3.
- (c) County Court Judges' Court.
1922, (P.E.I.), c. 8.
- (d) Summary trial of certain indictable offences.
Criminal Code Part XVI.
- (e) Trial of Juvenile Offenders for indictable offences.
Criminal Code Part XVII.
- (f) Speedy trial of indictable offences.
Criminal Code Part XVIII.
- (g) Expropriation proceedings by Railway Company.
R.S.C. c. 170, s. 219.

OTTAWA, April 23, 1928

JURISDICTION OF THE SUPREME COURT, NOVA SCOTIA

Judicature Act, N.S.

S. 14. (1) The Supreme Court of Nova Scotia shall continue to be a court of record, and subject to the provisions of this Act, shall continue to have and exercise the jurisdiction which at the time of the coming into force of this Act, was vested in, or capable of being exercised by such Court.

(2) The Supreme Court shall have no original jurisdiction in actions to recover a debt or liquidated demand in money which is under one hundred dollars. 1924, c. 55.

S. 15. The Supreme Court shall have within this Province the same powers as were formerly exercised by His Majesty's Courts of King's Bench and Common Pleas, Exchequer and Chancery, in England; and also such and the same powers as were on the first day of October, A.D. 1884, exercised in England by Her Majesty's Court of Appeal and by Her Majesty's High Court of Justice, excepting those which were exercised solely by the Probate, Divorce

Admiralty Division in respect to causes and matters within its exclusive jurisdiction, and excepting those powers which were specially conferred by Acts relating to bankruptcy.

§. 16. The jurisdiction of the Supreme Court shall include (subject to the provisions hereinafter contained) the jurisdiction which, immediately preceding the coming into force of this Act, was vested in or capable of being exercised by all or any one or more of the Judges of the said Supreme Court of Nova Scotia, sitting in Court or Chambers, or elsewhere, when acting as Judges pursuant to any statute or law, and all powers given to any such Court, or by any such Judges, by any statute or law, and also all ministerial powers, duties and authorities incident to any and every part of the jurisdiction aforesaid, as *civil as criminal*.

§. 17. The jurisdiction of the Supreme Court shall be exercised in the manner provided in this Act, or by Rules of the Supreme Court; and where no other provisions are contained in this Act or in any such Rules of Court with reference thereto, it shall be exercised, as nearly as may be, in the same manner as the same might have been exercised prior to the first day of October, A.D.

Court of Bankruptcy, R.S.C. c. 11, s. 152.

OTTAWA, April 23, 1928.

JURISDICTION OF COUNTY COURT OF NOVA SCOTIA

and—

- (a) In all personal matters in contract where the debt, demand or damages claimed whether on balance of account or otherwise do not exceed eight hundred dollars, and in all other actions where the damages claimed do not exceed four hundred dollars;
- (b) In all actions on bail bonds to the sheriff given in any case in a County Court irrespective of the amount of the penalty or amount sought to be recovered;
- (c) In all actions against a sheriff or officer of a County Court for any non-feasance or mal-feasance in connection with any matter in the Court;
- (d) In all actions of replevin where the value of the goods claimed does not exceed four hundred dollars.

R.S.N.S. c. 215, s. 29.

The above jurisdiction is concurrent with that of the Supreme Court.

R.S.N.S. c. 215, s. 31.

- (e) Executors and administrators may sue or be sued in a County Court in like manner as in the Supreme Court; and may be sued for the amount or part of the amount of a distributive share duly ascertained by the proper Court under an intestacy, or of a legacy under a will, provided such amount or part does not exceed four hundred dollars.

R.S.N.S. c. 215, s. 33.

- (f) County Courts and the Judges thereof shall, notwithstanding the title to land is brought into question, have and exercise the powers conferred upon them by the chapter "Forceable Entry and Detainer" and the chapter, "Of Overholding Tenants."

R.S.N.S. c. 215, s. 34.

- (g) A judge of a County Court shall have and exercise within his district the same jurisdiction and powers as may be exercised by the Supreme Court or any judge thereof under the chapter "Of Securing the Liberty of the Subject."

R.S.N.S. c. 215, s. 35.

- (h) If all parties to an action brought in the Supreme Court cons-
writing that such action may be transferred to a County Court
action may be transmitted to the County Court and thenceforth
court shall have jurisdiction in such action.
R.S.N.S., c. 215, s. 39.
- (i) Under the Probate Act, a Judge of a County Court exercises P-
Jurisdiction in Probate Districts in which there is no Judge of Pr
R.S.N.S., c. 217, 1923.
- (j) The Creditors' Relief Act.
R.S.N.S., c. 237.
- (k) Mechanics' Lien Act.
R.S.N.S., c. 250, s. 33.
- (l) The Woodmen's Lien Act.
R.S.N.S., c. 251, 1923.
- (m) The Municipal and Town Controverted Elections Act.
- (n) Concurrent original jurisdiction with the Supreme Court under
Expropriation Act.
R.S.N.S., c. 21, 1923.
- (o) Summary trial of certain indictable offences.
Criminal Code, Part XVI.
- (p) Trial of Juvenile offenders for indictable offences.
Criminal Code, Part XVII.
- (q) Speedy trial of indictable offences.
Criminal Code, Part XVIII.
- (r) Concurrent jurisdiction with judges of the Superior Court under s.
the Extradition Act. .
R.S.C., c. 37.
- (s) Jurisdiction in expropriation proceedings under the Railway Act.
R.S.C., c. 170, s. 219, 1927.
- (t) Jurisdiction in certain proceedings in bankruptcy.
R.S.C., c. 11, 1927.

Appellate—

- (a) The Municipal Courts Act.
R.S.N.S., c. 218, s. 58.
- (b) Justices Courts Act.
R.S.N.S., c. 219, s. 35.
- (c) Summary Convictions Act.
R.S.N.S., c. 224, s. 56.
- (d) The Collection Act.
R.S.N.S., c. 232, s. 30.
- (e) The Assessment Act.
R.S.N.S., c. 86, s. 55.
- (f) The Illegitimate Children's Act.
R.S.N.S., c. 49, 1923.
- (g) Land Tax Act.
R.S.N.S., c. 17, 1923.
- (h) The Electoral Franchise Act.
R.S.N.S., c. 3, s. 28, 1923.
- (i) From conviction or order of a Justice.
Criminal Code, Part XV, sec. 749.

Special—

- (a) Local Master of the Supreme Court.
R.S.C., O, LIVb.

OTTAWA, April 23, 1928.

JURISDICTION OF THE SUPREME COURT OF NEW BRUNSWICK

ature Act, N.B.

3. The Supreme Court of New Brunswick as constituted before this Act, of Common Law and Equity and possessing original and appellate jurisdiction in civil and criminal cases, shall continue under the aforesaid name to constitute one Supreme Court of Judicature for New Brunswick.

ature Act, Amended.

- 1) The said Court shall hereafter consist of three divisions, namely:—
- 2) An Appeal Division (hereinafter referred to as the Court of Appeal) with original and appellate jurisdiction;
- 3) A Chancery Division with original jurisdiction in civil matters and with such appellate jurisdiction to the single judges thereof, as is now or may hereafter be given to such single Judges;
- 4) A King's Bench Division with original jurisdiction in civil and criminal matters and with such appellate jurisdiction to the single Judges thereof as is now or may hereafter be given to such single Judges;
- 5) The Court of Appeal shall consist of the Chief Justice of New Brunswick and two of the Judges;
- 6) The Chancery Division shall consist of three Judges, and the Judges of the Court of Appeal shall be the Judges of the Chancery Division;
- 7) The King's Bench Division shall consist of a Chief Justice and three other Judges.

1913, c. 23.

8. There shall be assigned to the Chancery Division subject to the Rules and orders of transfer to be made under the authority of this Act:—

- 1) All causes and matters pending in equity at the commencement of this Act;
- 2) All causes and matters to be commenced after the commencement of this Act, under any Statute by which exclusive jurisdiction, in respect to such causes or matters, has been given to the Supreme Court in Equity or to the Judge in Equity;
- 3) All causes and matters for any of the following purposes:—
 - The administration of the estates of deceased persons;
 - The dissolution of partnerships or the taking of partnership accounts;
 - The redemption or foreclosure of mortgages;
 - The raising of portions or other charges on land;
 - The sale and distribution of the proceeds of property, subject to any lien or charge;
 - The execution of trusts, charitable or private, and the appointment and discharge of trustees;
 - The rectification, or setting aside or cancellation of deeds or other written instruments;
 - The specific performance of contracts between vendors and purchasers of real estate, including contracts for leases;
 - The partition or sale of real estate;
 - The wardship and adoption of infants and the care and sale of infants' estates;
 - The admeasurement of dower;
 - Lunacy, and the care and sale of estates of lunatics;
 - Estates of habitual drunkards.

Every writ or summons or other document by which any of the causes or matters may be commenced, shall be marked by the party issuing out the same with the words "Chancery Division," and every cause or matter shall be thereby assigned to such Division.

S. 9. There shall be assigned (subject as aforesaid) to the King's Division of the said Court:—

(1) All causes and matters, civil and criminal, pending in the Supreme Court, on the Common law side thereof, at the commencement of this Act.

(2) All causes and matters, civil and criminal, which would have been within the exclusive cognizance of the Supreme Court in the exercise of its original common law jurisdiction, if this Act had not passed. Every writ, summons or other document by which any of the above causes or matters may be commenced, shall be marked by the party issuing or taking out the same with the words "King's Bench Division," and every such cause or matter shall be thereby assigned to such Division.

S. 16. The court shall have jurisdiction to entertain an action at the instance of either the Attorney-General for the Dominion, or the Attorney-General of this province for a declaration as to the validity of any statute or any provision in any statute of this legislature, though no further relief shall be prayed or sought; and the action shall be deemed sufficiently constituted by the two officers aforesaid are parties thereto. A judgment in the action shall be appealable like other judgments of the said court.

The King's Bench Division exercises jurisdiction in Bankruptcy.
R.S.C., c. 11, s. 152.

OTTAWA, April 23, 1928

JURISDICTION COUNTY COURTS OF NEW BRUNSWICK

Original—

- (a) All personal actions of debt, covenant, and assumpsit, when the damages do not exceed the sum of four hundred dollars.
- (b) All actions of tort, when the damages claimed do not exceed two hundred dollars.
- (c) County Court Judges' Criminal Court.
1921 (N.B.), c. 3, s. 90.
- (d) Summary trial of certain indictable offences.
Criminal Code Part XVI.
- (e) Trial of Juvenile Offenders for indictable offences.
Criminal Code Part XVII.
- (f) Speedy trial of indictable offences.
Criminal Code Part XVIII.
- (g) Mechanics' Lien Actions.
C.S.N.B., c. 147.
- (h) Expropriation proceedings by Railway Company.
R.S.C., c. 170, s. 219.

Appellate—

- (a) From conviction or order of an Inferior Court.
C.S.N.B., c. 122, s. 6.
- (b) From conviction or order of a Justice.
Criminal Code Part XV, s. 749.
- (c) Under various provincial statutes.

QUEBEC

JURISDICTION OF COURT OF KING'S BENCH, SITTING IN APPEAL

The Court of King's Bench, sitting in appeal, and the judges thereof have appellate civil jurisdiction throughout the province over all causes, matters and things appealed from all courts and jurisdictions wherefrom an appeal by writ, unless such appeal is expressly directed to be to some other court. Unless otherwise provided by statute, an appeal lies to the Court of King's Bench, sitting in appeal, from any final judgment rendered by the Court or Court except:

- In matters of *certiorari*;
- In matters concerning municipal corporations or offices.
- In matters in which the sum claimed or value of the thing demanded is more than five hundred dollars;
- An appeal also lies to the Court of King's Bench, sitting in appeal, from final judgments of the Superior Court and Circuit Court in the following cases:

- a) When the demand, being for less than two hundred dollars in Circuit Court cases, and less than five hundred dollars in Superior Court cases, relates to fees of office, duties, rents, revenues or sums of money payable to His Majesty;
- b) When the demand, being for less than two hundred dollars in Circuit Court cases, and less than five hundred dollars in Superior Court cases, relates to titles, to lands or tenements, annual rents or other matters in which the rights in future of the parties may be affected.
- c) In all actions in recognition of hypothecs.

An appeal also lies from interlocutory judgments in matters susceptible of appeal in the following cases:—

- a) When they in part decide the issues;
- b) When they order the doing of anything which cannot be remedied by the final judgment;
- c) When they unnecessarily delay the trial of the suit.

JURISDICTION OF THE SUPERIOR COURT AND OF THE JUDGES THEREOF

The Superior Court has jurisdiction in all cases where the amount involved is \$100 or above—this concurrently with the Circuit Court in cases between \$100 and \$200.

The judges of the Superior Court are called upon to preside the Court of King's Bench criminal jurisdiction.

The Superior Court has original jurisdiction by means of evocation in all suits and actions instituted in the Circuit Court sitting elsewhere than at the place of a district, in any of the matters enumerated in paragraph 2 of article 43.

The Superior Court has also original jurisdiction by means of evocation in suits and actions instituted in the Circuit Court of the district, relating to,—

- (a) Fees of office;
 - (b) Duties, rents, revenues or sums of money payable to His Majesty;
 - (c) Titles to lands or tenements;
 - (d) Annual rents or other matters by which rights in future may be affected.
- (C.C.P., 1058.—10 Geo. V., c. 79, s.1.)

Excepting the Court of King's Bench, all courts, circuit judges, magistrates, and all other persons and bodies politic and corporate, within the Province, are subject to the superintending and reforming power, or control of the Superior Court and of the judges thereof in such manner as by law provided.

The judges of the Superior Court have also jurisdiction for president the Circuit Court of all judicial districts of the province of Quebec, except the district of Montreal.

OTTAWA, April 21, 19

MEMORANDUM FOR DEPUTY MINISTER OF JUSTICE

With reference to your memo. of the 20th instant, asking for statement of the jurisdiction of the Circuit Court, Superior Court and Court of Bench Judges, I beg to report as follows:—

CIRCUIT COURT

The Judges of the Circuit Court have jurisdiction—

1. In all cases of personal nature under \$100;
2. In all matters in connection with recourses against judgments of the Courts: Commissioner's Court, Justices of the Peace, Recorder, Harbour Commissioners, by means of certiorari;
3. In all suits for school taxes or school fees and all suits concerning judgments for the building and repairing of churches, parsonages and churches whatever may be the amount of such suits;
4. In appeals against decisions of commissioners or school trustees (a) R.S.Q. 1909;

The said article 2981 is now Section 508 of C. 133, R.S.Q. 1925, which is as follows:—

An appeal or recourse lies to the Circuit Court or to the Magistrate's Court:

When the school commissioners or trustees have:

- (a) Selected a school site or decided upon rebuilding a school;
 - (b) Established a new district;
 - (c) Altered the limits of a district already existing;
 - (d) United or separated two or more districts;
 - (e) Levied a special tax in virtue of the provisions of Section 20;
 - (f) Refused to perform any of the duties which they may or shall perform in virtue of Sections 88, 93, 237, 264, 265, 266.
5. In contestations of procès-verbaux, rolls, resolutions or other municipal ordinances;
 6. In contestations of municipal by-laws;
 7. In appeals concerning valuation rolls under the Cities and Towns' Act;
 8. In contestations of municipal elections;
 9. In contestations of elections of commissioners or school trustees;
 10. In appeals in matters of electoral lists.

The above observations apply to the Circuit Court sitting in the district of Montreal exclusively. In all other districts the Circuit Court is presided over by the Judges of the Superior Court and the jurisdiction of the Court applies to amounts under \$200.

OTTAWA, April 23, 1928.

JURISDICTION OF THE COURT OF APPEAL, MANITOBA

t of Appeal Act, R.S.M. c. 43.

S. 5. The chief justice of Manitoba and the other judges of Appeal shall be ex-officio judges of the Court of King's Bench and may, in addition to their duties as judges of the Court of Appeal, preside over any trials of civil and criminal cases in the Court of King's Bench to be tried before a judge with a jury, and over any trials at bar, and over the trials of any election petitions, and any of them may also hold sittings of the County Court Judge's Criminal Court for the trial of criminal matters and proceedings to be heard, tried and disposed of by a single judge without a jury, and for all purposes shall have the powers, rights, privileges and immunities of a judge of the Court of King's Bench.

S. 6. The Court of Appeal shall be vested with and shall exercise all the powers, powers and duties which immediately prior to the twenty-third day of July, 1906, were held, exercised and enjoyed, under and by virtue of "The Court of King's Bench Act," or any other statute of this Province or of the Dominion of Canada, by the Court of King's Bench sitting in banc and as a court of appeal for the judgment, decision, order or decree of a single judge, or verdict of a jury, or of a Surrogate Court judge or of a County Court Judge, or verdict of a County Court jury.

(2) All applications for new trials and all appeals of the nature of those heard before the said twenty-third day of July, 1906, were heard and disposed of before the Court of King's Bench sitting in banc shall be brought before and heard and disposed of by the Court of Appeal, and the Court of King's Bench shall not have or exercise any appellate jurisdiction.

(3) Nothing in this section shall be construed so as to take away the jurisdiction of the said Court of King's Bench to sit in banc for the hearing and disposition of any matters other than appeals or applications for new trials which may come or be brought before it.

S. 7. The court shall hear and determine all applications for new trials, questions or issues of law, all questions or points reserved for the opinion of the court, all appeals or motions in the nature of appeals, all petitions, and other motions, matters or things whatsoever which shall be lawfully brought before it according to the laws and practice in England as the same existed and obtained on the fifteenth day of July, 1870, when not specially changed, altered or provided for by the laws of the Province of Manitoba, or of the Dominion of Canada, or by this Act, or by the rules of court enacted herewith, or that shall hereafter be made hereunder.

OTTAWA, April 23, 1928.

JURISDICTION OF THE COURT OF KING'S BENCH, MANITOBA

rt of King's Bench Act, R.S.M. c. 46.

S. 10. The court is and shall continue to be a court of record of original jurisdiction, and shall possess and exercise all such powers and authorities as by the laws of England are incident to a superior court of record of civil and criminal jurisdiction in all matters civil and criminal whatsoever, and shall use, enjoy and exercise all the rights, incidents and privileges of said courts as fully to all intents and purposes as the same were, on the fifteenth day of July in the year 1870, possessed, used, exercised and enjoyed by any

of Her Majesty's superior courts of common law at Westminster, or by the Court of Chancery at Lincoln's Inn, or by the Court of Probate, or by any court in England having cognizance of property and civil rights, and of crimes and offences.

S. 13. For the purpose of removing doubts and ambiguity, it is declared and enacted that the court shall have the like jurisdiction and powers as the laws of England were, on the fifteenth day of July in the year 1800, possessed and exercised by the Court of Chancery in England in respect of the matters hereinafter enumerated or referred to, that is to say,—

- (a) fraud, mistake and accident;
- (b) in all matters relating to trusts, executors and administrators, partnerships and accounts, mortgages and awards, or to infants, idiots or lunatics and their estates;
- (c) the staying of waste;
- (d) the compelling of the specific performance of agreements and contracts;
- (e) the compelling of the discovery of concealed papers or evidence, such as may be wrongfully withheld from the party claiming benefit of the same;
- (f) the preventing of multiplicity of actions or suits;
- (g) the decreeing of the issue of letters patent from the Crown to right claimants;
- (h) the decreeing of the repeal and of the making void of letters patent issued erroneously, or by mistake, or improvidently, or through fraud;
- (i) the administration of justice in all cases in which there exists no adequate remedy at law;
- (j) the granting of injunctions to stay waste in a proper case, notwithstanding that the party in possession claims by an adverse legal title.

S. 14. The court shall have power to relieve against forfeiture for breach of a covenant or condition in any lease to insure against loss or damage by fire, where no loss or damage by fire has happened, and the breach has in the opinion of the court been committed through accident or mistake or otherwise without fraud or gross negligence, and there is an insurance on foot at the time of the application to the court in conformity with the covenant to insure upon such terms as to the court may seem fit.

S. 17. The court shall have jurisdiction to grant alimony to any wife who would be entitled to alimony by the law of England, or to any wife who would be entitled by the law of England to a divorce, and to alimony as incident thereto, or to any wife whose husband lives separate from her without an sufficient cause and under circumstances which would entitle her by the law of England to a decree for the restitution of conjugal rights; and alimony when granted, shall continue until the further order of the court.

S. 18. The court shall have jurisdiction to entertain an action for criminal conversation. The law applicable to such actions shall be as the same was in England prior to the abolition of such action in England; and the practice shall be the same as in other actions in the court, so far as it is applicable.

S. 19. An order of judgment for alimony may be registered in any registry office or land titles office in Manitoba, and the registration shall, so long as the order or judgment registered remains in force, bind the estate and interest of every description which the defendant has in any lands in the registration division or land titles district where the registration is made, and operate thereon in the same manner, and with the same effect, as the registration of a charge by the defendant of a life annuity on his lands.

21. The court shall have the same jurisdiction as the Court of Chancery in England, on the fifteenth day of July in the year 1870, in regard to sales and sales of settled estates, and in regard to enabling infants, with the approbation of the court, to make binding settlements of their real and personal estate on marriage, and in regard to questions submitted for the decision of the court in the form of special cases on the part of such persons as apply by themselves, their committees or guardians, or otherwise, concur therein.
2. The examination of a married woman apart from her husband as to her knowledge of the nature and facts of an application for the sale or leasing of settled estate, or as to her consent thereto, shall in no case be necessary, unless expressly directed by the court or a judge.
3. Infants and persons of unsound mind (not so found), for whom there is no committee, required to be served with notice of any application to the court, may be served by delivery to the official guardian *ad litem* of a copy of the petition or other proceeding required to be served; and from the time of such service the said official guardian shall be the guardian *ad litem* of the infant or person of unsound mind, unless and until the court or judge otherwise orders; and the said official guardian or any other guardian appointed by the court for the infant or person of unsound mind shall take all such proceedings as he may think necessary for the protection of the interests of the infant or person of unsound mind in the proceeding in which he is so appointed guardian.
4. In case there be more than one infant or person of unsound mind (not so found), for whom service is made on the official guardian *ad litem*, only one copy of the petition or other proceeding need be so served, but the copy of each person on whose behalf the official guardian is served is to be attached to the copy served.
5. Money realized from the sale or leasing of any settled estate, or any interest therein, shall be paid, applied or invested as the court or a judge shall direct.
22. The court shall have jurisdiction to try the validity of last wills and testaments, whether the same refer to real or personal estate, and whether the estate of the will has been granted or not, and to pronounce such wills and testaments to be void for fraud and undue influence or otherwise, in the same manner and to the same extent as the court has jurisdiction to try the validity of deeds and other instruments.
23. The court shall also have jurisdiction—
- (a) in matters testamentary, as provided by "The Surrogate Courts Act";
 - (b) in respect of lunatics and infants and their property and estates, as provided by "The Infants Act" and "The Lunacy Act";
 - (c) in respect of partitions and sale of real estate as provided in "The Partition Act," and otherwise as provided by any statute of the Province of Manitoba, or by the law of England as the same stood upon the fifteenth day of July in the year 1870.

Jurisdiction in Bankruptcy, *R.S.C. c.170, s.152.*

OTTAWA, April 23, 1928.

COUNTY COURTS, MANITOBA

Final—

- (a) All personal actions of tort when the damages claimed do not exceed eight hundred dollars;
- (b) Actions of replevin when the value of the goods to be replevied does not exceed eight hundred dollars.

- (c) All actions for legal or equitable claims and demands for debt, account or breach of contract, or covenant or money demand, whether payable in money or otherwise, when the amount or balance payable does not exceed eight hundred dollars.
R.S.M. c.44, s.57; 1924, c.11, s.2.
- (d) Summary trial of certain indictable offences.
Criminal Code, Part XVI.
- (e) Trial of Juvenile Offenders for indictable offences.
Criminal Code, Part XVII.
- (f) Speedy trial of certain indictable offences.
Criminal Code, Part XVIII.
- (g) Trial of certain offences in the County Court Judges' Criminal Court.
R.S.M., c.45.
- (h) Senior County Court judge ex officio judge of Surrogate Court.
R.S.M., c.47, s.8.
- (i) Liens to be realized in County Court under Mechanics Lien Act.
R.S.M., c.125, s.27.
- (j) Expropriation proceedings by Railway Company.
R.S.C. (1927), c.170, s.219.

Appellate—

- (a) From conviction or order of Justice or Police Magistrate in charge laid under provincial statute.
R.S.M., c.189.
- (b) From conviction or order of a Justice.
Criminal Code, Part XV, s.749.
- (c) From conviction or order of a Justice under Municipal Act.
R.S.M., c.133, s.741.

Special—

- Local Master of the King's Bench.
R.S.M., c.46, s.70.

COURT OF APPEAL, SASKATCHEWAN

- (a) All jurisdiction civil and criminal possessed by judges of any Court in Saskatchewan under any statute of Canada or the Province.
- (b) Power to hear all appeals given by law from Court of King's Bench or any Court of inferior jurisdiction.
- (c) Power to deal with any matters which could properly be brought before any divisional court of the High Court of Justice in England on January 1st, 1898.
R.S.S., Cap. 38, secs. 3, 5, 6.
- (d) Appeals from final order or judgment of District Court.
R.S.S., Cap. 40, sec. 56.
- (e) Appeals in actions by or against Judge of District Court.
R.S.S., Cap. 40, sec. 12.
- (f) Constitutional questions on reference.
R.S.S., Cap. 49, secs. 2 and 3.
- (g) Appeals under Bankruptcy Act.
R.S.C., Cap. 11, sec. 152.
- (h) Appeals from conviction on indictment.
Criminal Code, Part XIX, secs. 1012-3.
- (i) Appeal from awards under Railway Act.
R.S.C., Cap. 170, sec. 232.
- (j) Appeal from awards under Saskatchewan Railway Act.
R.S.S., Cap. 79, sec. 114.

- (k) Appeals in certain case from Court of Revision under Cities Act.
R.S.S., Cap. 86, sec. 442.
- (l) Appeals in mechanics liens actions.
R.S.S., Cap. 206, sec. 30.
- (m) Appeal from decision on election petition.
R.S.S., Cap. 5, sec. 28.

To preside over criminal trials in certain districts and hear election petitions.

Ex officio Judges of King's Bench.

COURT OF KING'S BENCH, SASKATCHEWAN

Original—

- (a) A court of original civil and criminal jurisdiction with all jurisdiction ever enjoyed by the Supreme Court of Saskatchewan and that exercisable before the Judicature Act, 1873, in England by:—
 - (i) The High Court of Chancery as a Common Law Court as well as a Court of Equity including the jurisdiction of the Master of the Rolls.
 - (ii) Court of Queen's Bench.
 - (iii) Court of Common Pleas.
 - (iv) Court of Exchequer.
 - (v) Court of Probate.
 - (vi) Assize, Oyer and Terminer and gaol delivery.
 - (vii) Any of the judges of the above courts sitting in Court or Chambers or elsewhere acting as judge in pursuance of any statute, law or custom: with all powers given to any such court or judges or judge by any statute: and all ministerial powers, duties and authorities incident to any and every part of the jurisdiction so conferred.
 - (viii) Under direction, the jurisdiction of the Lord Chancellor representing the Crown as visitor of corporations.
R.S.S., Cap. 39, secs. 3, 11.
- (b) To grant alimony.
R.S.S., Cap. 39, sec. 22.
- (c) To entertain action for criminal conversation.
R.S.S., Cap. 39, sec. 23.
- (d) Speedy trial of indictable offences.
Criminal Code, Part XVIII.
- (e) Where persona designata.
R.S.S., Cap. 48, sec. 2.
- (f) Civil actions transferred from District Court.
R.S.S., Cap. 40, secs. 33, 39, 40, 42.
- (g) Action by or against Judge of District Court.
R.S.S., Cap. 40, sec. 12.
- (h) Petitions of Right.
R.S.S., Cap. 50, secs. 2, 3, 14.
- (i) Attachment of debts.
R.S.S., Cap. 59, secs. 2, 8.
- (j) Proceedings under Land Titles Act.
R.S.S., Cap. 67, secs. 2, 107, 152.
- (k) Expropriation under Saskatchewan Railway Act.
R.S.S., Cap. 79, secs. 105, 115.
- (l) Under Bankruptcy Act.
R.S.C., Cap. 11, sec. 152.

- (m) Canada Railway Act.
R.S.C., Cap. 170, sec. 2 (7), 239.
- (n) Election petitions.
R.S.S., Cap. 5, secs. 2, 20.

Appellate—

- (a) Interlocutory orders or judgments of District Court.
R.S.S., Cap. 40, sec. 56.
- (b) Stated case.
Criminal Code, Part XV, secs. 705, 761.
R.S.S., Cap. 64, sec. 8.
- (c) Appeal from awards under Canada Railway Act.
R.S.C., Cap. 170, sec. 232.

DISTRICT COURT, SASKATCHEWAN

Original—

- (a) All personal actions in contract or tort up to \$500.
- (b) All actions against Sheriff or other District Court Officer for non-feasance or malfeasance in connection with matter in court where amount claimed does not exceed \$500.
- (c) All actions of replevin where value of property claimed does not exceed \$500.
- (d) Action of debt where balance after set off does not exceed \$500.
R.S.S., Cap. 40, secs. 27-8.
- (e) Trial of certain offences in the District Court Judge's Criminal Court.
R.S.S., Cap. 40, sec. 57
- (f) Summary trial of certain indictable offences.
Criminal Code, Part XVI.
- (g) Trial of juvenile offenders for indictable offences.
Criminal Code, Part XVII.
- (h) Speedy trial of indictable offences.
Criminal Code, Part XVIII.
- (i) Where persona designata.
R.S.S., Cap. 48, sec. 2.
- (j) Recovery of small debts, i.e., claims for debt not exceeding \$100.
R.S.S., Cap. 60, secs. 2 and 31
- (k) Mechanics lien actions irrespective of amount.
R.S.S., Cap. 206, sec. 30.
- (l) Expropriation proceedings by Railway Company.
R.S.C., Cap. 170, sec. 217.

Appellate—

- (a) From conviction or order of Justice or Police Magistrate in charge laid under provincial statute.
R.S.S., Cap. 40, sec. 50.
- (b) From conviction or order of Justice.
Criminal Code, Part XV, sec. 749.
- (c) Recovery of small debts—from judgment of a Justice.
R.S.S. Cap. 60, sec. 37.
- (d) From decision, omission, neglect or refusal by the Council in respect of an appeal under the Towns Act.
R.S.S., Cap. 87, sec. 419.
- (e) From decision, omission, neglect or refusal of Court of Revision under Villages Act.
R.S.S., Cap. 88, sec. 253.
- (f) From decision of Court of Revision under Rural Municipality Act.
R.S.S., Cap. 89, sec. 260.

Special—

- (a) (Ex officio).
 - (i) Local Master of the King's Bench.
R.S.S., Cap. 39, sec. 44.
 - (ii) Official Referee.
R.S.S., Cap. 39, sec. 46.
 - (iii) Coroner and Justice of the Peace for the Province and Police Magistrate within Judicial District.
R.S.S., Cap. 40, sec. 11.
- (b) Confirmation of Tax Returns.
R.S.S., Cap. 90, sec. 19.

SUPREME COURT—APPELLATE DIVISION—ALBERTA

- (a) All jurisdiction of Supreme Court of Northwest Territories en banc prior to the Court's formation.
- (b) Power to hear all appeals given by law from any Judge of the Supreme Court or any court of inferior jurisdiction.
- (c) Power to deal with any matter which might lawfully be brought before any Divisional Court of the High Court of Justice or Court of Appeal in England.
R.S.A., Cap. 72, sec. 29.
- (d) Constitutional questions on reference.
R.S.A., Cap. 89, sec. 3.
- (e) Appeals from District Court.
R.S.A., Cap. 73, sec. 47.
- (f) Appeals under Bankruptcy Act.
R.S.C., Cap. 11, sec. 152.
- (g) Appeals from conviction on indictment.
Criminal Code, Part XIX, secs. 1012-3, 2.
- (h) Appeal from awards under Railway Act.
R.S.C., Cap. 170, sec. 232.
- (i) Appeals from awards under Alberta Railway Act.
R.S.A., Cap. 48, sec. 119.
- (j) Appeals in Mechanics liens actions.
R.S.A., Cap. 182, sec. 23.
- (k) Appeals from decisions on election petitions.
R.S.A., Cap. 5, sec. 27.
R.S.A., Cap. 117, sec. 40.

SUPREME COURT—TRIAL DIVISION—ALBERTA

Original—

- (a) A court of original and criminal jurisdiction with all the jurisdiction ever held by the Supreme Court of the Northwest Territories within the Province and that exercisable before July 15, 1870, by:—
 - (i) The High Court of Chancery as a Common Law Court as well as a Court of Equity, including the jurisdiction of the Master of the Rolls.
 - (ii) Court of Queen's Bench.
 - (iii) Court of Common Pleas.
 - (iv) Court of Exchequer.
 - (v) Court of Probate.
 - (vi) Assize, Oyer and Terminer and gaol delivery.

- (vii) Any of the judges of the above courts sitting in Court or Chambers or elsewhere acting as judge in pursuance of any statute, law or custom: with all powers given to any such court or judges or judge by any statute: And all ministerial powers, duties and authorities incident to any and every part of the jurisdiction so conferred.
R.S.A., Cap. 72, secs. 3, 13, 14.
- (b) To grant alimony.
R.S.A., Cap. 72, sec. 21.
- (c) To entertain action for criminal conversation.
R.S.A., Cap. 72, sec. 23.
- (d) Speedy trial of indictable offences.
Criminal Code, Part XVIII.
- (e) Civil actions transferred from District Court.
R.S.A., Cap. 73, sec. 30.
- (f) Petitions of Right.
R.S.A., Cap. 94, sec. 3.
- (g) Proceedings under Land Titles Act.
R.S.A., Cap. 133, secs. 2, 37.
- (h) Expropriation proceedings under Alberta Railway Act.
R.S.A., Cap. 48, secs. 2, 110, 120.
- (i) Bankruptcy Act.
R.S.C., Cap. 11, sec. 152.
- (j) Canada Railway Act.
R.S.C., Cap. 170, sec. 2 (7), 239.
- (k) Election petitions.
R.S.A., Cap. 5, sec. 20.
- (l) Mechanics liens actions.
R.S.A., Cap. 182, secs. 2, 21.
- (m) Constitutional questions reference.
R.S.A., Cap. 89, sec. 3.

Appellate—

- (a) Stated case.
Criminal Code, Part XV, secs. 705, 761.
- (b) Appeal from awards under Canada Railway Act.
R.S.C., Cap. 170, sec. 232.

DISTRICT COURT, ALBERTA

Original—

- (a) All claims whatsoever up to \$600.
R.S.A., Cap. 73, sec. 24.
- (b) All claims by consent of parties.
R.S.A., Cap. 73, sec. 29.
- (c) Actions transferred from Supreme Court.
R.S.A., Cap. 73, sec. 33.
- (d) Probate—
R.S.A., Cap. 73, sec. 43.
- (e) Guardianship of infants.
R.S.A., Cap. 73, sec. 44.
- (f) Certain powers as local judge of Supreme Court.
R.S.A., Cap. 73, sec. 45.
- (g) Trial of certain offences in the District Court Judge's Criminal Court.
R.S.A., Cap. 73, sec. 53.
- (h) Summary trial of certain indictable offences.
Criminal Code, Part XVI.

- (i) Trial of juvenile offenders for indictable offences.
Criminal Code, Part XVII.
- (j) Speedy trial of indictable offences.
Criminal Code, Part XVIII.
- (k) Mechanics lien proceedings.
R.S.A., Cap. 182, secs. 2-21.
- (l) Expropriation proceedings by Railway Company.
R.S.C., Cap. 170, sec. 217.
- (m) Controverted municipal elections.
R.S.A., Cap. 117, secs. 2-18.

Appellate—

- (a) From conviction or order of Justice or Police Magistrate in charge laid under provincial statute.
R.S.A., Cap. 78, sec. 9.
- (b) From conviction or order of Justice.
Criminal Code, Part XV, sec. 749.
- (c) Recovery of small debts—from judgment of a Justice.
R.S.A., Cap. 76, sec. 39.
- (d) From Court of Revision decision under Towns Act.
R.S.A., Cap. 108, sec. 292.
- (e) From Court of Revision decision under Villages Act.
R.S.A., Cap. 109, sec. 124.
- (f) From Court of Revision decision in Municipal districts.
R.S.A., Cap. 110, sec. 258.

Special—

- (Ex officio) J.P.
R.S.A., Cap. 73, sec. 14.

COURT OF APPEAL, BRITISH COLUMBIA

- (a) Superior Court of record with full jurisdiction conferrable by the provincial legislature.
- (b) All jurisdiction and powers held prior to April 25th, 1907 by Supreme Court sitting as a Full Court.
- (c) Appeals from judgment decree or order of a Supreme Court Judge final or interlocutory.
- (d) Appeals from County Court under County Court Act.
- (e) Appeals from Supreme Court Judge on constitutional questions referred.
- (f) Appeals from decision of Supreme or County Court Judge in matter of Certiorari,
quo warrants,
mandamus,
prohibition,
stated case,
points of law arising in appeal under Summary Convictions Act,
habeas corpus.
- (g) Original jurisdiction necessary or incidental to hearing and determination of any appeal.
R.S.B.C., Cap. 52, secs. 6-7.
R.S.B.C., Cap. 53, sec. 116.
- (h) Appeals under Bankruptcy Act.
R.S.C., Cap. 11, sec. 152.
- (i) Appeals from conviction on indictment.
Criminal Code, Part XIX, secs. 1012-3.

- (j) Appeals from awards under Railway Act.
R.S.C., Cap. 170, sec. 232.
- (k) Appeals from awards under British Columbia Railway Act.
R.S.B.C., Cap. 218, sec. 68.
- (l) Appeals in Mechanics Liens actions.
R.S.B.C., Cap. 156, sec. 35.
- (m) Appeals in election petitions.
R.S.B.C., Cap. 76, sec. 222.

SUPREME COURT, BRITISH COLUMBIA

Original—

- (a) Court of original jurisdiction with complete cognizance of all pleas whatsoever with jurisdiction in all cases civil as well as criminal arising within the Province.
R.S.B.C., Cap. 51, sec. 9.
- (b) In lunacy.
R.S.B.C., Cap. 51, sec. 13.
- (c) Speedy trial of indictable offences.
Criminal Code, Part XVIII.
- (d) Civil actions transferred from County Court.
R.S.B.C., Cap. 53, sec. 72.
- (e) Removal or prohibition of County Court actions.
R.S.B.C., Cap. 53, secs. 125-6.
- (f) Petitions of Right.
R.S.B.C., Cap. 63, sec. 3.
- (g) Attachment of debts.
R.S.B.C., Cap. 17, sec. 3.
- (h) Expropriation under British Columbia Railway Act.
R.S.B.C., Cap. 218, sec. 55.
- (i) Under Bankruptcy Act.
R.S.C., Cap. 11, sec. 152.
- (j) Canada Railway Act.
R.S.C., Cap. 170, sec. 232.
- (k) Administration of estates.
R.S.B.C., Cap. 5, sec. 5.
- (l) Powers under Arbitration Act.
R.S.B.C., Cap. 13.
- (m) Provincial election petitions.
R.S.B.C., Cap. 76, sec. 210.

Appellate—

- (a) Appeals from Court of Revision, Municipal elections.
R.S.B.C., Cap. 75, sec. 18.
- (b) Stated case.
Criminal Code, Part XV, secs. 705, 761.
R.S.B.C., Cap. 245, sec. 89.
- (c) Appeals from awards under Canada Railway Act.
R.S.C., Cap. 170, sec. 232.

COUNTY COURT, BRITISH COLUMBIA

Original—

- (a) As full jurisdiction within its field as the Supreme Court.
 - (i) All personal actions up to \$1,000.
 - (ii) Any personal action where balance after set off does not exceed \$1,000.

- (iii) Ejectment where value of premises not over \$2,500.
- (iv) Replevin where value of goods not over \$1,000.
- (v) Action involving question of title to land where value not over \$2,500.
- (vi) Equitable jurisdiction in respect of property or claims not over \$2,500.
- (vii) Probate.
- (viii) Trust funds.
- (ix) Appointing receivers and granting injunctions.
- (x) Under Mineral and Placer Mining Acts.
- (xi) Recovery of tenements.
R.S.B.C., Cap. 53, secs. 22-50.
- (b) Trial of certain offences in County Court Judges Criminal Court.
R.S.B.C., Cap. 53, sec. 181.
- (c) Speedy trial of indictable offences.
Criminal Code, Part XVIII.
- (d) Mechanics liens actions.
R.S.B.C., Cap. 156, sec. 23.
- (e) Expropriation by railway company.
R.S.B.C., Cap. 218, secs. 2, 55.
R.S.C., Cap. 170, sec. 217.
- (f) Matters under Municipal Elections Act.
R.S.B.C., Cap. 75, secs. 18, 91.
- (g) Attachment of debts.
R.S.B.C., Cap. 17, secs. 2, 3.
- (h) Administration Act.
R.S.B.C., Cap. 5, secs. 2, 5.

ppellate—

- (a) From conviction or order of Justice in charge laid under provincial statute.
R.S.B.C., Cap. 245, sec. 77.
- (b) From conviction or order of Justice.
Criminal Code, Part XV, sec. 749.

pecial—

- Local judges of Supreme Court.
R.S.B.C., Cap. 51, sec. 18.
- Ex officio—J.P.
R.S.B.C., Cap. 150, sec. 5.

ADDENDA No. 3

OTTAWA, April 25, 1928.

773/28.

SIR,—I beg to enclose herewith the data regarding the jurisdiction of the Ontario courts, referred to in my letter to you of this date, which has now been completed.

Yours truly,

"ENC."

W. STUART EDWARDS.

WALTER TODD, Esq.,
Chief Clerk, Committees and Private Bills Branch,
House of Commons, Ottawa.

ADDENDA No. 3A

OTTAWA, April 23, 1928.

The County Courts Act, R.S.O. 1927, Chap. 91, page 963:—

- "19. (1) The county and district courts shall have jurisdiction in,—
- (a) actions arising out of contract, expressed or implied, where the sum claimed does not exceed \$800;
 - (b) personal actions, except actions for criminal conversation and actions for libel, where the sum claimed does not exceed \$500, unless the title to the land is in question, and in that case also where the value of the land does not exceed \$500, and the sum claimed does not exceed that amount;
 - (d) actions for the obstruction of or interference with a right of way or other easement where the sum claimed does not exceed \$500, unless the title to the right or easement is in question, and in that case also where the value of the land over which the right or easement is claimed does not exceed that amount;
 - (e) actions for the recovery of property, real or personal, including actions of replevin and actions of detinue where the value of the property does not exceed \$500;
 - (f) actions for the enforcement by foreclosure or sale or for the redemption of mortgages, charges or liens, with or without a claim for delivery of possession or payment or both, where the sum claimed to be due does not exceed \$500.
 - (g) partnership actions where the joint stock or capital value of the partnership does not exceed in amount or value \$2,000;
 - (h) actions by legatees under a will for the recovery or delivery of money or property bequeathed to them where the legacy does not exceed in value or amount \$500, and the estate of the testator does not exceed in value \$2,000;
 - (i) all other actions for equitable relief where the subject matter involved does not exceed in value or amount \$500; and
 - (j) actions and contestations for the determination of the right of creditors to rank upon insolvent estates where the claim of the creditor does not exceed \$500. R.S.O. 1914, c. 59, s. 22 (1)."

(2) The Judicature Act, R.S.O. 1927, Chap. 88:—

Sec. 2. "The Supreme Court shall be continued as a superior court of record, having civil and criminal jurisdiction, and it shall have all the jurisdiction, power and authority which on the 31st day of December, 1912, was vested in or might be exercised by the Court of Appeal or by the High Court of Justice or by a Divisional Court of that Court, and such jurisdiction, power and authority shall be exercised in the name of the Supreme Court."

(3) The Judicature Act, R.S.O. 1897, Chap. 51 (pp. 561 and 565):—

Sec. 25. "The High Court shall be a Superior Court of Record of original jurisdiction, and shall, subject as in this Act mentioned, possess all such powers and authorities, as by the law of England, are incident to a Superior Court of civil and criminal jurisdiction; and shall have use and exercise all the rights, incidents and privileges of a

Court of Record, and all other rights, incidents and privileges as fully to all intents and purposes as the same were on the 5th day of December, 1859, used, exercised and enjoyed by any of Her Majesty's Superior Courts of Common Law at Westminster in England, and may and shall hold plea in all and all manner of actions and causes as well criminal as civil, and may and shall proceed in such actions and causes by such process and course as are provided by law, and as shall tend with justice and despatch to determine the same; and may and shall hear and determine all issues of, law and may and shall also hear and (with or without a jury, as provided by law) determine all issues of fact that may be joined in any such action or cause, and judgment thereon give, and execution thereof award in as full and ample a manner as might, at the said date, be done in Her Majesty's Courts of Queen's Bench, Common Bench, or, in matters which regard the Queen's revenue (including the condemnation of contraband or smuggled goods), by the Court of Exchequer in England. 58 V. c. 12, s. 21.

Sec. 41. The High Court shall have, generally, all the jurisdiction which, prior to the 22nd day of August, 1881, was vested in, or capable of being exercised by, the Court of Queen's Bench, Court of Chancery, Court of Common Pleas, and Courts of Assize, Oyer and Terminer, and Gaol Delivery (whether created by Commission or otherwise) and the High Court shall be deemed to be and shall be a continuation of the said Courts respectively (subject to the provisions of this Act) under the said name of "The High Court of Justice for Ontario." 58 V. c. 12, s. 36.

The High Court likewise has original jurisdiction as provided by various Ontario Statutes such as the Surrogate Courts Act, the Partition Act, the Settled Estates Act, etc.

W. R. D.

HOUSE OF COMMONS

SPECIAL COMMITTEE

ON

JUDGES' SALARIES

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4—MAY 4, 1928

WITNESSES:

their Honours, Judges E. C. S. Huycke, Peterborough; L. St. G. Stubbs, Winnipeg; A. Constantineau, Vankleek Hill.

OTTAWA
F. A. ACLAND

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1928

MINUTES OF PROCEEDINGS

HOUSE OF COMMONS,

FRIDAY, May 4, 1928.

The Committee met at 11 a.m., the Chairman, Mr. Thorson, presiding.

The Minutes of the previous meeting were read and adopted.

Members present: Messrs. Bell (Hamilton West), Bell (St. John-Albert), Boys, Cantley, Carmichael, Fafard, Gershaw, Hay, Ladner, Lapointe, Macphail (Miss), Sanderson, Thorson, Totzke—14.

In attendance as witnesses were: Messrs. F. R. Taylor, K.C., St. John; Hon. N. W. Rowell, K.C., Toronto; Eugene Lafleur, K.C., Montreal; E. Anderson, K.C., Winnipeg; Nicol Jeffrey, K.C., Guelph; W. N. Tilley, K.C., Toronto; Geo. H. Montgomery, K.C., Montreal; Hon. G. H. Gordon, K.C., Peterborough; and Geo. F. Henderson, K.C., Ottawa.

A memorandum in reference to judicial salaries in Canada, submitted by the Judicial Salaries Committee of the Canadian Bar Association, was ordered to be printed as part of the Minutes of Proceedings and Evidence. Communications from the Toronto Board of Trade, from Judge L. St. G. Stubbs and from Judge J. A. Jackson were also ordered printed as part of the record.

The witnesses made statements and were discharged.

Moved by Mr. Ladner: That Judges E. C. S. Huycke and L. St. G. Stubbs be recalled, and their expenses paid.

Motion carried.

Judges Huycke and Stubbs made additional statements and were discharged. Judge A. Constantineau was permitted to make corrections in his evidence as printed.

Messrs. Ladner, Cantley, and Carmichael read into the record parts of memoranda which they had received favouring increases in judicial salaries.

Moved by Mr. Ladner: That the Board of Railway Commissioners be invited to send representatives to the Committee to testify as to the adequacy of the salaries paid the Commissioners.

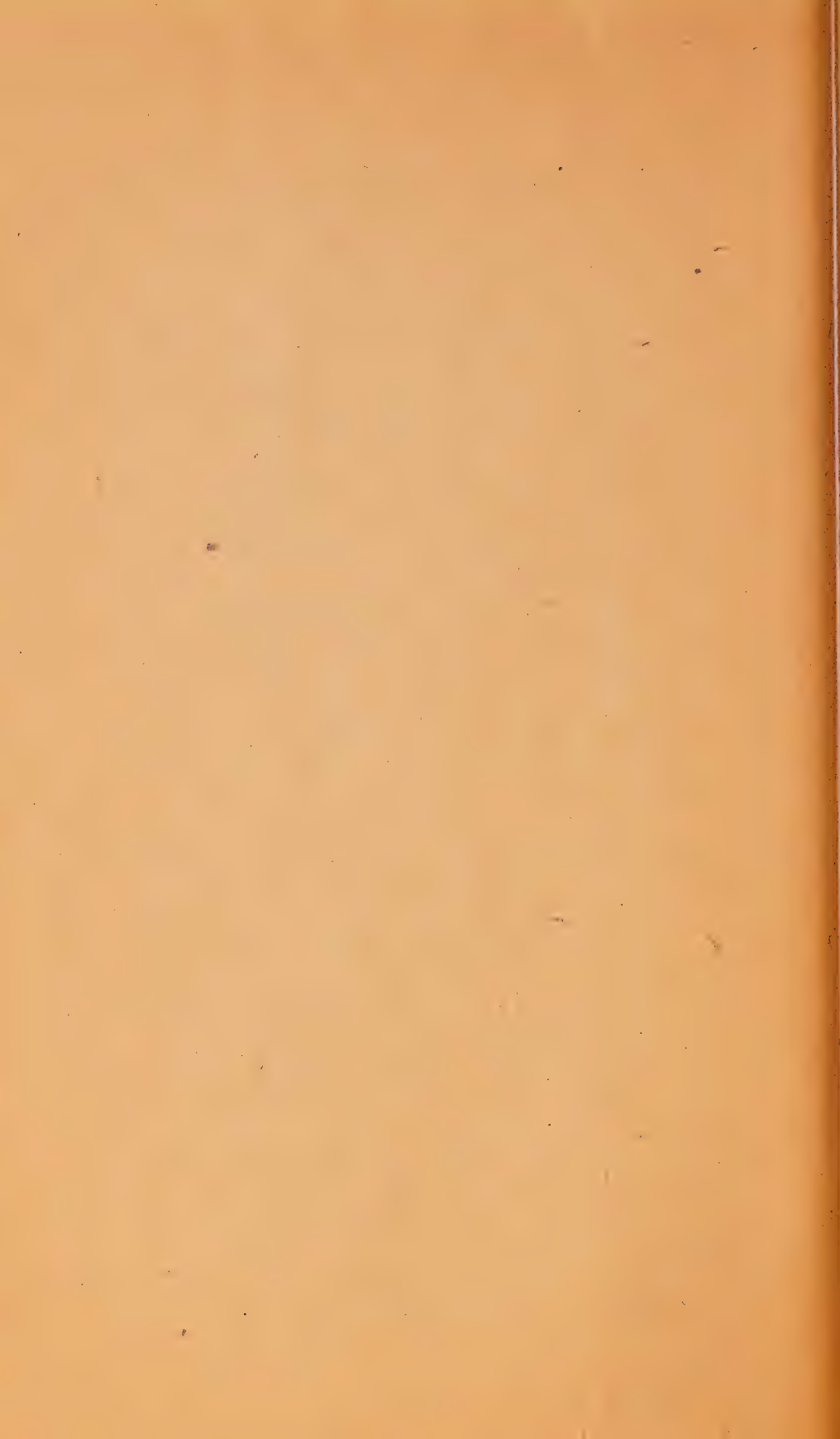
After discussion as to whether the question of the adequacy of the salaries of the Railway Commissioners was within the contemplation of the Order of Reference;

The motion was negatived on division.

The Committee then adjourned until Wednesday, May 9, at 10 o'clock.

A. J. McKENNA,

Clerk of the Committee.



MINUTES OF EVIDENCE

COMMITTEE ROOM 425,

HOUSE OF COMMONS,

FRIDAY, May 4th, 1928.

The Special Committee to consider the question of the adequacy of the remuneration paid to the Judges of the various courts in Canada met at 10 o'clock a.m., the Chairman, Mr. J. T. Thorson, presiding.

The CHAIRMAN: The Committee will come to order, and we will hear the minutes of the last meeting.

Minutes read and approved.

The CHAIRMAN: I have a letter here from Judge Jackson, whom we heard at the last session of the Committee, asking that certain corrections be made. This letter will be made a part of the record.

DISTRICT COURT,

LETHBRIDGE,

(112 ST. GEORGE ST.

TORONTO, ONTARIO)

April 27, 1928.

DEAR MR. THORSON:

I beg to thank you for giving me an opportunity to be heard before the Committee on the adequacy of Judicial Salaries and for the courtesy extended to me on that occasion.

As it is a matter of record that I said my record of the cost of living for 1904-1905 for 12 months was \$200. I find the amount for a little less than one year, April 26th, 1904, to April 12th, 1905, was \$207.65.

I also wish to correct another statement or rather add to it. I was asked the question as to how many outside courts I have in a year. I said I thought the number was 24. I find the number on my list to be nine outside points and 28 sittings. I also attend Chambers at Taber, Alberta, weekly—making 52 sittings, each taking part of two days, besides three or four sittings at Cardston, Alberta. I had forgotten the Chambers sittings which take up my time and require night trains when I cannot use a car. If I attended all these they would take up parts of 177 days, but as some of them conflict and I am occasionally unable to attend all Chamber days the number would not be quite so many. I think 150 days or parts of days would be a proper estimate if I had to attend by train and 75 days when I use a car.

I trust you can use this correction.

I can only emphasize that in our petition we did not ask for more than would give us a reasonably comfortable living. Less would, we believe, only lessen the worry, not remove it.

Again thanking you, I am

Yours sincerely,

(Signed) J. A. JACKSON.

LETHBRIDGE, ALBERTA.

I will be at the above address until Thursday, May 3rd, 1928.

The CHAIRMAN: I also have a memorandum prepared by Judge Stubbs for the Special Committee on Judges' Salaries re fees or salaries paid by the provinces to county or district court judges. I am advised this is not correct in every detail, but that it sufficiently indicates the position.

Mr. LADNER: Will that be part of our minutes?

The CHAIRMAN: Yes, part of our minutes.

Memorandum reads as follows:

The principal source of remuneration for County Court or District Court Judges from the provincial governments is the fees or salaries paid to them as Surrogate Court or Probate Court Judges. However, there is no uniformity of system among the provinces in that regard. No two provinces pay the same fees or salaries, and some of them pay none at all.

The position of Surrogate Court or Probate Court Judge is a separate and distinct judicial appointment made by the provinces under provincial statutes, and has no necessary connection with, or relation to the judicial appointment of County Court or District Court Judge made by the Dominion Government under "The Judges' Act." It is a purely provincial matter wholly within provincial jurisdiction.

ALBERTA

The District Court Judges are also the Surrogate Court Judges in their respective districts, as such, they are paid a salary of \$1,000. I understand they receive no other remuneration from the province.

BRITISH COLUMBIA

In British Columbia the system is different from the other provinces. Following the English system, the Probate Court is a division of the Supreme Court. The County Court Judges have also a limited probate jurisdiction; but I am informed receive no fees or salaries for such services.

MANITOBA

There are ten County Court Judges in Manitoba, four in the city of Winnipeg, and six at other points in the province. The Senior Judge in Winnipeg is the Surrogate Court Judge of the Eastern Judicial District. As such he is paid a salary of \$2,500. The three Junior Judges in Winnipeg are not Surrogate Court Judges, but are each paid a salary of \$500 by the province. Each of the other six judges is the Surrogate Court Judge in his respective district, and is paid a salary of \$1,500 as such.

In Manitoba the Surrogate Court has the same jurisdiction as the Probate Court in England, and I think the statement is approximately true of the other provinces. In England the Probate Court is a division of the High Court. The Judge of it has the status and rank of a High Court Judge, and also the same salary, namely, £5,000.

There are some small fees payable to the County Court Judges for services under several provincial Statutes, but they are negligible, and would not amount to \$100 per annum at the outside.

NOVA SCOTIA

In Nova Scotia under "The Probate Act," the system is changing from provincial probate judges to county court judges who are ex officio probate judges. Sec. 160 provides that vacancy in office of judge of pro-

bate filled by the judge of the County Court. Does not apply to County of Halifax.

"Judge of Probate" gets prescribed fees; but judge of probate does not include a judge of the county court, who is ex officio a judge of the court of probate.

Because of the statement of Mr. Duff to the Committee in this connection (see p. 15 of the Minutes of Proceedings and Evidence), I wired to His Honour Judge Crowe, Sydney, N.S., as follows:

'Are your County Court Judges paid probate fees? Wire reply.' I have received the following reply from him:

'County Court Judges paid probate fees here in a very limited class of cases such as proof of Wills in Solemn form and settlement of contentious estate. My fees since appointment nearly three years ago have not aggregated one hundred dollars.'

NEW BRUNSWICK

The County Court Judges are not Surrogate or Probate Judges, and receive no fees or salaries from the province.

ONTARIO

The County Court Judges are also Surrogate Court Judges, with the exception of some few junior judges. The Surrogate Court Judges are paid a salary of \$1,000 by the province, except the six Judges of the County of York, the Senior of whom is paid \$2,600 and the others \$1,600. I understand there are no other provincial fees or salaries.

In Ontario, each of the Judges of the Superior Courts is also paid a salary of \$1,000 by the province.

PRINCE EDWARD ISLAND

The County Court Judges are in the same position as those of New Brunswick. They receive no fees or salaries from the province.

SASKATCHEWAN

The District Court Judges are also the Surrogate Court Judges in their respective districts. As such they are paid a salary of \$1,500. I understand they receive no other remuneration from the province.

Respectfully submitted,

(Signed) L. ST. G. STUBBS,
C.C.J.

E. and O. Ex.

Dated 4th May, 1928.

The CHAIRMAN: I understand there are representatives of the Canadian Bar Association present who are prepared to lay the views of the association before the Committee, and that Mr. Tilley will speak first.

Mr. TILLEY, K.C.: I am afraid I will not be able to be here long enough to address the Committee, as I am engaged elsewhere. I simply attended to show my sympathy with the movement.

Mr. ROWELL, K.C.: May I explain first as to members who are present and the arrangement we would like to make if it meets with the approval of the Committee. Mr. Lafleur and Mr. Montgomery are here from the province

of Quebec, Mr. Taylor of St. John from the province of New Brunswick, Mr. Tilley, Mr. Jeffrey, and I think Senator Spence—who will be here in a few moments—and myself from the province of Ontario, and Mr. Anderson, president of the Manitoba Bar Association, from the province of Manitoba. As Mr. Taylor has to appear in the Supreme Court at 10.30 he asked that he might be heard first. Then they have asked me, as chairman of the executive, to present the resolution of the Canadian Bar Association and supplement it by certain observations. Mr. Lafleur will then speak and Mr. Anderson, I presume, will say a few words from the West. There will be one from the East, one from the West, one from Ontario, and one from Quebec, and any questions any member of the Committee desires to ask will be answered to the best of our ability.

The CHAIRMAN: Is it the wish of the Committee that Mr. Taylor be heard first?

Several MEMBERS: Carried.

Mr. TAYLOR, K.C.: Mr. Chairman and gentlemen: I will not take more than a few moments of your time. I might say that the Barristers' Society of New Brunswick passed a unanimous resolution favouring some readjustment and increase of judges' salaries. The society feels that under living conditions as they are in New Brunswick, and probably in the other provinces, it is impossible for the judges to carry on as they should on the salaries they are receiving. That applies not only to our High Court judges but to the County Court judges as well. In some respects the cost of living varies in different parts of Canada, and I think it is a perfectly safe statement to make that there is no part of Canada where it is more expensive to live than in the Maritime Provinces generally. Some things may be less expensive there than in other portions of Canada but taking it on the whole it costs fully as much to live there as anywhere else. For instance, in the city of St. John I know of a house for sale at \$15,000, which is assessed so that the owner has to pay \$800 a year in taxes. It is not too much to expect a judge to own his own home, and he has to pay his taxes the same as anybody else, and when he is faced with a tax bill for civic purposes it makes a very serious inroad on a salary of \$9,000, or on the salary of a County Court judge, \$5,000 a year. Other things in New Brunswick and the Maritime Provinces generally are fully as expensive as in the rest of Canada so I think you will see we are asking the judges to live on a different scale and in a different way from the way they could live on their salaries at the time of Confederation or at any time until the last ten or fifteen years. There is no opportunity for our County Court judges to augment their income beyond the \$5,000 a year which they receive as salary. In other parts of Canada they may get additional remuneration as masters of the Supreme Court or Surrogate judges or in some other way, but they have to live and keep up the position of a judge on a salary of \$5,000 a year, which is impossible.

The same thing applies to the Supreme Court judges, where they are giving the attention to their duties which this most responsible position requires and at the same time trying to keep up a proper position in the community. It is not fair to have them worried all the time about financial matters, as they now have to do on the salary they receive. The people in my province are unanimous that something ought to be done; the St. John Board of Trade is strongly in favour of some increase in the salaries, so that their position will be such as it has been in the past. That applies even more strongly to the Supreme Court of Canada, and presumably in Toronto, Montreal and other cities, where living conditions are such that on \$9,000 a year it is almost an impossibility for a judge to live without financial worries. There is not a dissenting voice, Mr. Chairman, in the Bar of New Brunswick, with reference to

this matter; they are thoroughly in sympathy with it; and they recognize, as the Canadian Bar Association has recognized, that something should be done in this matter, and that it is urgent that attention should be given to it at the earliest possible date.

I do not want to trespass upon your time too long, but I want to very definitely make the point that there should be a uniform—I do not mean a uniform increase as to all judges, but the salary of judges throughout Canada are altogether too low at the present time and that living conditions in the part of Canada of which I am speaking from my personal knowledge are such that the judges cannot properly maintain their position without financial worries on the salary they are receiving. That applies to County Court Judges as well as to the High Court Judges.

Hon. Mr. ROWELL, K.C.: The Canadian Bar Association has had the matter of judicial salaries under consideration for many months. It came before the Canadian Bar Association as a result of representations made by the official Bar associations of several of the provinces of Canada, urging that in the interests of the administration of Justice there should be a substantial increase in judicial salaries. The Bar Association, at its last meeting in the city of Toronto, took the matter under consideration. It appointed a representative committee, containing members of the Bar from every province in Canada. That committee gave the whole matter the most careful consideration, canvassing it in all its aspects, and they reached certain conclusions which they embodied in a report to the Canadian Bar Association. (Reads):

The question of judicial salaries has been under consideration by the governing bodies of the legal profession throughout Canada for some time. The conviction has steadily grown that having regard to the cost of living and the increasing financial demands on judges, the present scale of salaries is inadequate and should be substantially increased. In August last the Canadian Bar Association at its Annual Meeting appointed a special committee of representatives from the various provinces, to consider the matter. The Committee in due course reported to the Association as follows:—

1. The Committee has considered the reports of the Conference of Representatives of the Governing Bodies of the Legal Profession in Canada and of the Governing Bodies of the Legal Profession in the Provinces of Ontario, Manitoba, Alberta and New Brunswick, relating to judicial salaries, and after having given full consideration to the whole matter begs to report as follows:

2. The Committee has reached the conclusion that the salaries now paid to Judges of the Supreme Court of Canada, the Exchequer Court of Canada and the Superior Courts in the Provinces are, having regard to the cost of living and the increasing financial demands on Judges, entirely inadequate. The Committee is of opinion that in the public interest the Judges of the Supreme Court of Canada should receive \$20,000 per annum and the Judges of the Exchequer Court of Canada and the Superior Courts of the Provinces \$15,000 per annum, with a reasonable additional allowance to the Chief Justices in such Courts.

3. The Committee is much impressed by the need for increase in salary to Judges of the County and District Courts, but is unable to recommend a uniform increase. It is of opinion, however, that the Judges of those courts in the large centres of population where the cost of living is high and the volume of work great should be increased up to \$9,000 per annum.

4. In connection with these proposed increases of judicial salaries the Committee suggests that when adequate remuneration has been arranged the salary paid should cover all services and that payments for special services under Statutes otherwise should be discontinued.

5. The Committee is convinced that a substantial reduction in the number of judicial positions might be made with great advantage to the administration of justice, and strongly urges that the Dominion and Provincial Governments co-operate to that end.

Hon. Mr. GORDON, K.C.: Would you mention to the Committee that some members of the committee were to revise that report?

Hon. Mr. ROWELL, K.C. (reads):

The principle of this report was adopted by the Association and a committee was thereupon appointed to bring the report to the attention of the Federal and Provincial Governments, and to respectfully urge that the recommendations of the report be carried into effect. Since the meeting of the Canadian Bar Association this report has been approved in principle by the Council of the Bar of Quebec, the Law Society of Upper Canada, the Law Society of New Brunswick and the Law Society of Manitoba.

The report of the Association has been forwarded to the Prime Minister (or Attorney General) of each province, and the committee now begs to present the report to the Federal Government, with the request that it receive sympathetic consideration by the Government, and that action be taken during the present session to substantially increase judicial salaries.

I may say that the committee, appointed by the Canadian Bar Association, had power to amend the report in detail, but not in principle, and the results of their consideration is embodied in this memorial which was presented to the Government. This is the considered view of the committee appointed by the Canadian Bar Association to report on the whole matter and present it to the Governments concerned.

Then follows a reference to the salaries already paid in Canada, with which you are familiar, and I need not repeat them. Then follows reference to the judicial salaries paid in other parts of the Empire.

I desire to draw attention to this, because I think it has some bearing upon the issue which the Committee is called upon to consider. Taking \$5 to the £ sterling as a convenient medium of exchange, although, of course, we all know it is \$4.86, the Lord Chancellor of England receives a salary of \$50,000 per year. That has been the salary for a generation or more; I do not know just how long. On retirement, even though he has only served a period of a few years, he receives a pension of £5,000. It is true that as a rule they sit as Law Lords, and take part in the work of the Judicial Committee of the Privy Council, and also sit in the House of Lords as the final appellate tribunal for Great Britain.

The Lord Chief Justice of England receives a salary of \$40,000, or £8,000, and a retiring allowance, or pension, at the end of fifteen years, or if disabled and incapable of serving at an earlier period, of £4,000, or \$20,000. That is the retiring allowance for the Lord Chief Justice.

The Lords of Appeal, who sit in the House of Lords, receive £6,000 per year, and a retiring allowance of £3,750 after fifteen years' service, or on an earlier retirement because of indisposition.

The Master of the Rolls, who corresponds with our Chief Justice in our Appellate Division, receives the same salary of £6,000, with a retiring allowance at the end of fifteen years of £3,750.

The ordinary Superior Court Judges in England receive £5,000. That has been the salary for generations, almost. They receive a retiring allowance, at the end of fifteen years, of £3,500, or \$17,500.

The Scottish Judges are not included in our memorial. The Lord Justice General, who corresponds with our Chief Justice, receives £5,000. The Lord Justice Clerk, who is the Chief Justice of their Second Division, receives £4,800. The other judges of the Court of Session receive £3,600. There is no High Court Judge in Scotland who does not receive approximately \$18,000 per year, and has received that for a long period of years.

In the Irish Free State, the Lord Chief Justice receives £4,000, or \$20,000; the President to the High Court, \$15,000. Puisne Judges of the Supreme Court in Ireland, which would correspond technically to our Supreme Court of the provinces of Ontario and Quebec, because the population of the Free State would correspond approximately with the population of the province of Ontario, and is not very different from the population of the province of Quebec; the Judges of the Supreme Court in Ireland receive \$15,000; and the Puisne Judges, \$12,500.

Then take Northern Ireland, which has a population of approximately 1,000,000, although I am not sure of the figure. The Lord Chief Justice receives £5,000, or \$25,000; the Lord Justices, £4,000, or \$20,000; and the other Judges of the Superior Court in Ireland, £3,500, or \$17,500. So that, in Northern Ireland, the minimum salary received by a High Court Judge is £3,500, and in the Free State the minimum salary is £2,500, and the Judges of their highest court receive £3,000.

Then coming to the other Dominions; in the Federal Court of Australia, which corresponds with our Supreme Court here, the Chief Justice receives £3,500, or \$17,500. The Puisne Judge receives £2,600, or \$13,000.

Then, coming to the Supreme Court of the States; take the Supreme Court of New South Wales, which would correspond with the Supreme Court of Ontario, or the Court of King's Bench in the province of Quebec; the Chief Justice receives £3,500, or \$17,500, and the Puisne Judges, £2,600, or \$13,000.

In Victoria, which has a much smaller population than either Ontario or Quebec, the Chief Justice receives £3,000, or \$15,000, and the Puisne Judges, £2,500, or \$12,500.

Then, take New Zealand, which has a population of about 1,200,000. They pay their Chief Justice \$11,250, and their Puisne Judges \$10,000.

Then, coming to South Africa, the Appellate Division Chief Justice receives £3,000, or \$15,000. There are four Judges in the Appellate Division, and they receive from \$13,750 to \$16,250. The salaries vary, which may be due to length of service, but I do not just know why there is this variation in the salaries of the Judges in South Africa.

They have four states, and they have a Court in each state. The President in one is in receipt of a salary of \$15,000, three are in receipt of \$12,500, and nineteen in receipt of \$11,250.

Mr. Chairman and members of the Committee: you will note that not only in Great Britain, but in every other Dominion, the salaries paid to Superior Court Judges is substantially higher, and has been for years, than we have been paying in Canada. I think one explanation of this is that we have been influenced in judicial salaries more by the conditions existing in the United States than by the conditions existing in Great Britain and other parts of the Empire. The low salaries, which for years they paid to Judges in the United States, have undoubtedly reacted on the judicial salaries in Canada, and we have rather followed their example than the example of Great Britain and the other Dominions.

But they have realized their mistake in the United States, and all over the United States, for during the past seven or eight years, and particularly the past five years, there has been a movement to substantially increase judicial salaries. The result has been that not only in the Federal Courts, but in some twenty to thirty States, the judicial salaries have been very substantially increased.

The salaries for the Supreme Court of the United States have been increased from \$14,500 to \$20,000, with \$500 additional to the Chief Justice. That became effective on the first of January, 1927.

In New York they have gone up very rapidly in the last two years. In the Court of Appeals the salary now is, \$22,500, where, but a few years ago, it was \$10,000 to \$12,000. For the Appellate Division and the Supreme Court in Departments 1 and 2, the salary is, \$22,500.

Hon. Mr. LAPOINTE: That is the city of New York?

Hon. Mr. ROWELL, K.C.: That is the city of New York. The city of New York supplements the \$15,000 salary paid by the State, by a payment of \$7,500 to each Judge.

Mr. BOYS: Those are the salaries paid by the State?

Hon. Mr. ROWELL, K.C.: The salaries are paid by the State, but the city of New York realized that they could not get men of the calibre they needed to man their courts, at the salary provided by the State. So, in order to improve judicial conditions in the city of New York, the city itself, taking the taxpayers' money, has added \$7,500 to the State salary in order to get stronger men for their Bench in New York. I do not know whether the matter has been dealt with as yet, but I know the question was up of the city increasing that \$7,500 to \$10,000, and making the salaries of Judges in New York city, \$25,000.

Mr. TOTZKE: Are those Judges appointed or elected?

Hon. Mr. ROWELL, K.C.: I think all the State Judges are elected. Massachusetts and Pennsylvania, and a few of the States in the United States appoint their Judges, but, generally speaking, the State Judges are elected.

Mr. TOTZKE: For what term of years?

Hon. Mr. ROWELL, K.C.: It varies; ten years, fourteen years, and so on.

The CHAIRMAN: It varies up to twenty-five years.

Hon. Mr. ROWELL, K.C.: The judges of the Federal Courts in the United States are all appointed; there is that difference between the Federal and State Courts, with the exception of a few states, where they are appointed.

Mr. BOYS: I think we have most of the material that you are referring to now in the statement, but we have not got what you just referred to. I think it would be very useful to the Committee if you could state what is paid by the State of New York or other states, and, what is paid by the city of New York, or other cities.

Hon. Mr. ROWELL, K.C.: I only have the figures for the city of New York, Departments 1 and 2, which includes the city of New York and suburban New York. These are two of the four Departments of the State, and in these two, out of the four, the city supplements the State's salary by \$7,500, making the total salary \$22,500. At least, that was the situation when we investigated it the last time, but, as I have intimated, we received information from New York that a movement was under way to increase the city grant from \$7,500 to \$10,000.

Mr. BOYS: Can you say how long the city has been independently contributing to the salaries?

Hon. Mr. ROWELL, K.C.: No, I cannot say, Mr. Boys.

Mr. Boys: You say the reason is because their work entails so much extra work, and it is only reasonable that the city should contribute something independent of the State.

Hon. Mr. ROWELL, K.C.: That is not the reason, as I understand it. The reason, as I understand it, is that the city of New York feels that to get the type of men they require on the Bench it is essential that they should pay a larger salary, having regard to the cost of living in New York, and the incomes of the profession, in order to keep up the standard of the Bench.

Mr. TOTZKE: As those judges are elected, has the city any control over them?

Hon. Mr. ROWELL, K.C.: No, they have no control, but they have provided this extra salary.

Mr. TOTZKE: Mr. Rowell, as to these Judges that are elected, has the city any control over them?

Hon. Mr. ROWELL: They have no control. In other words, the Judges in those districts receive a stated amount from the city of \$7,500. It corresponds in some respects with what is done in some of the provinces. As the Committee has been informed, in some cases the provinces supplement the amounts paid by the State, or by the Dominion rather, by \$1,000. That is on the basis of their discharging certain duties under the Dominion Statutes.

Mr. Boys: Do you approve of that method, which really results in discrimination?

Hon. Mr. ROWELL: The view of the Bar Association is that once adequate salaries are provided, those payments by the provinces should cease. We believe that Judges appointed under the B.N.A. Act should be paid by the Dominion, and the view of the Bar Association is that the Dominion should provide all the salaries that are necessary and these other provincial grants should cease. That applies generally except to the Surrogate Courts which are constituted by the provinces and we make it clear in our report that we do not contemplate the elimination of any fees paid to the County Court Judges.

Mr. Boys: But do you think it is just, merely for the sake of argument, that a Judge in one district should receive a certain amount of money, supplemented, if you will, by \$1,500 payable by the province, and that in another province where a Judge has to do practically the same work, he should get nothing from the province?

Hon. Mr. ROWELL: I quite concede that there is room for a difference of opinion upon it, and there was a difference of opinion in our Committee. Our view was that the Surrogate Court, so far as Ontario is concerned and, I think, some other provinces, involves certain judicial duties. The province can appoint its own judge, and as a rule they name the County Court Judges as Surrogate Judges. I think the Act so provides at present. A certain salary pertains to that office and in view of the representations made to our Committee, we made an exception in reference to that particular matter.

I have given you the increases in New York. Now take New Jersey, which is a very important State, with a large amount of legal work done there. Their Supreme Court Judges receive \$18,000 a year, the Vice-Chancellors receive \$18,000, and the Circuit Judges \$17,000 a year. These are great increases over the conditions that prevailed ten or fifteen years ago.

Mr. TOTZKE: Is a Circuit Judge comparable to our Supreme Court Judge?

Hon. Mr. ROWELL: "No." He would be comparable to High Court Judges who go on assize work.

Mr. TOTZKE: Have you the salaries paid in the United States or in England to Judges who would be comparable to our own County Court Judges?

Hon. Mr. ROWELL: The County Court Judges' salaries in England do not bear the same relation to the High Court Judges' salaries as they do in Canada. The County Court Judges' salaries in England are £1,500 as compared with £5,000. There is a movement in England to increase the County Court Judges' salaries. There is also a discussion in regard to High Court Judges' salaries, which have not been raised for a generation, or more than a generation.

In Pennsylvania, the Supreme Court Judges receive \$17,500, and the Judges of the Superior Court receive \$16,000. These Judges correspond to the Judges of the highest courts in the provinces, the Supreme Court of Ontario, and the High Court of Quebec, or the Superior Courts in the other provinces.

In Illinois, the Judges of the Supreme Court receive \$15,000, the Judges of the Appellate Court receive \$12,000, and in Cook County, Chicago, the Judges of the Appellate, Circuit and Superior Courts receive \$15,000.

Then you get into the Southern and Middle States, where you will find a scaling down of those salaries, but all moving upwards. If we go on to investigate American authorities, one looks to New York, New Jersey and such States, because of the calibre of the Judges presiding in those States.

Mr. TOTZKE: You have no information as to the salaries paid in these other States, Southern and Western?

Hon. Mr. ROWELL: I can give some of them.

Mr. BELL (Hamilton): For instance, where they try people on charges of revolution?

Mr. LADNER: California, Oregon and Washington would be good examples?

Hon. Mr. ROWELL: In Tennessee they pay \$9,000.

Mr. LADNER: What do they pay in California, Mr. Rowell?

Hon. Mr. ROWELL: In California \$11,000.

Mr. LADNER: And Oregon and Washington, if you have it?

Hon. Mr. ROWELL: In Oregon they pay \$7,500, and in Washington \$7,000.

Mr. TOTZKE: How about the Dakotas?

Mr. BOYS: I might say, Mr. Chairman, that I have a printed statement published by the Printing Bureau, of Washington, which shows the salaries paid to the Judges in the various States of the Union as of January 1st—I forget whether it is January 1927 or January 1928. It is the latest, and I can hand it to you. I have not got it here, but I will get it.

Hon. Mr. LAPOINTE: I think I have it.

Mr. BOYS: Someone was kind enough to send it to me through the mails yesterday.

Hon. Mr. ROWELL: In North Dakota they pay \$5,500. Dealing for the time being with the Supreme Court, High Court and Exchequer Judge salaries, before I come to the County Court Judges' salaries, I think I may fairly state, or that I am stating it fairly, rather, that the view of the Committee of the Canadian Bar Association is that the salaries we recommend are salaries which we believe should be paid to men competent for those positions, and that men who are worth that amount should be chosen for those positions.

Mr. BOYS: Even then you are not sure of getting them?

Hon. Mr. ROWELL: That is a matter for Parliament.

Mr. BOYS: Regardless of whether the Liberal, Tory, or Progressive party is in?

Hon. Mr. ROWELL: Yes.

Mr. BOYS: Have you any suggestions to make?

Hon. Mr. ROWELL: That point was discussed in our Committee, and we decided not to make any recommendation. I do not think I shall venture to express an opinion.

Mr. BOYS: Perhaps as an individual you would make on, or as a leader of the Ontario Bar?

Hon. Mr. ROWELL: May I present the Report of the Canadian Bar Association, just so that we will not get it mixed up with other things? I think that is the view I have, and I think it may fairly be stated that the position of a Judge of our Supreme Court or of our Superior Court is one of the greatest responsibility. That applies also to Judges of the County Courts. I think it is an interesting question, to ask, why is it that law and order are so respected in countries where British institutions prevail? I believe law and order largely depend upon the respect in which the Judiciary is held, in which the Courts are held, and the manner in which law is administered.

Mr. SANDERSON: We are a law-abiding people; do not forget that.

Mr. ROWELL: We are a law-abiding people, and why are we a law-abiding people? Because we have been trained for generations in respect for the Courts, in respect for the Judges, and in respect for the law. We are governed by the law: we are not governed by the police. The police could not keep this country in order, but they are necessary. It is respect for law in Great Britain, Canada, and the other Dominions, which makes life and property secure. One does not want to make comparisons with other States and communities; you can do that yourselves, but one of the great reasons for respect for life and property in Great Britain and other communities where the British system of government prevails lies in the high regard for law on the part of the masses of the people, and we do not believe you can have the highest respect for the law unless you have respect for the Courts, unless you have respect for the Judges, and respect for the ability for the integrity and for the high standing of the Judiciary. It is a much bigger question than the question of the amount of money upon which a Judge can live; it goes, in our view, to the whole basis of law and order in countries with institutions such as ours, and it is of the greatest possible importance to get the best men possible to occupy seats upon the Bench of this country; and it is the poorest economy to secure men less able.

Mr. SANDERSON: There is no difficulty in securing men?

Hon. Mr. ROWELL: No, there is no difficulty in securing men, but there is difficulty in securing the best men available.

Mr. SANDERSON: That is a matter of opinion, I suppose?

Hon. Mr. ROWELL: I would not say that, with great respect. Of course there are individual cases.

Mr. TOTZKE: It does not always follow that the ablest lawyer makes the best Judge?

Hon. Mr. ROWELL: That is perfectly true. Sometimes men at the Bar with common sense and courtesy, and industry, make excellent Judges, some of the very best.

Hon. Mr. LAPOINTE: They must know some law as well.

Hon. Mr. ROWELL: Yes.

Mr. TOTZKE: It is not always the most successful lawyer who knows the most law.

Hon. Mr. ROWELL: I do not know whether that is a compliment to the Bench or to the Jury. That is our view, that it is a very much bigger question than the simple question of what a Judge can live on. Our firm conviction is that the United States has suffered in respect for law and in the administration of justice because under her institutions and her system she has in many of her States less able and representative men on the Bench than we in British communities have been able to secure. In England, it has been a tradition for generations that they should get the very ablest men on the Bench, and they provide salaries for them that they thought years ago would enable a man to maintain his position with honour and dignity. We feel that it is in the interests of Canada and in the interests of the administration of justice that we should, as nearly as possible, approach the ideal which is established in Great Britain and in the other Dominions, and which the United States is struggling hard to live up to.

Coming now to the County and District Judges (Reading):

The Judges of the County and District Courts throughout Canada are performing increasingly important functions and the tendency has been to enlarge their jurisdiction and thereby their responsibility and labour. In Ontario, through provincial legislation passed in 1919, there has been a substantial decrease in the number of Judges, a reduction from seventy-five to sixty-four Judges having been made in that period, without, so far as the Committee is aware, any impairment of the work or dissatisfaction to either the Bar or the public.

The Committee is aware that representatives of the County and District Court Judges recently met the Government and presented a memorial outlining their submission. It is hoped that their requests for an increase in salary will receive careful consideration by the Government.

Mr. TOTZKE: Would you mind telling me how provincial legislation can determine the number of Judges?

Hon. Mr. ROWELL: The number of Judges is determined entirely by provincial legislation. That is one of the anomalies of our Federal System.

Hon. Mr. LAPOINTE: The Courts are organized by provinces?

Hon. Mr. ROWELL: They are organized by provinces.

Mr. TOTZKE: But the payments are made by the Dominion?

Hon. Mr. ROWELL: The payments are made by the Dominion. That is one of the anomalies in our Federal System. The provinces decide the number of Judges, and the Dominion appoints them and pays them. That is one reason why we have submitted these recommendations to the Governments of all the provinces. Broadly speaking, the view of the Bar Association is that we have more Judges than we require for the efficient discharge of the duties pertaining to the Judiciary in the provinces of Canada. I do not want to be understood as suggesting that that applies to the Judges of the County Court and District Court Judges. That is a matter which requires co-operation with the provinces; the Dominion of Canada cannot do it on its own account. (Reading): "It is the opinion of the Bar that there should be a general increase in the salaries of all such Judges, and as the report now indicates, that the salaries in large centres of population where the cost of living is high and the volume of work great should be up to \$9,000 per annum.

"By section 100 of the British North America Act the salaries of the Superior, District and County Court Judges are to be paid by the Dominion,"—

Mr. LADNER: On that second paragraph, Mr. Rowell, we had evidence at our last sitting that in fact the cost of living in the cities was not higher than

It was in the country. Frankly, I have always been of the reverse opinion, but that is the opinion which was submitted, and with considerable vigor. In making this statement to our Committee, have your Committee based it upon any enquiry into the facts?

Hon. Mr. ROWELL: No. We had upon our Committee men from both the cities and the country, not the larger cities, but towns and cities of smaller size, and those men agreed that that was the correct view, that the cost of living was not as great in those smaller communities as in the large cities.

Mr. LADNER: Would that mean the social side of their activities, or the essential parts of the cost of living?

Hon. Mr. ROWELL: We did not go into that in any detail, but I am not aware of any person who has lived in the country but has moved to the city who has not constantly referred to the great increase in the cost of living. I cannot speak of it myself, because I moved so long ago from the country to the city.

Mr. TOTZKE: We had a man here in that position who had moved from the country to the city, and he said, if I recall correctly, that living in the country was fully as high as in the city.

Hon. Mr. ROWELL: I do not want to get into any controversy upon that point. I can only say that this represents the view of the Bar Association, that there is a difference.

Mr. LADNER: I just wanted to know whether it was based upon an enquiry.

Hon. Mr. ROWELL: It was based upon the views of members, who came from all classes of the community.

Mr. LADNER: Did they indicate in what way it would be higher?

Hon. Mr. ROWELL: No.

Mr. LADNER: Did they indicate whether it would be 10 per cent or 25 per cent higher?

Hon. Mr. ROWELL: No; we did not have any information upon that point.

Mr. GERSHAW: Would the Bar Association recommend that the salaries of County Court Judges in the cities be higher than those of County Court Judges in the country? That is what your Committee is recommending.

Hon. Mr. ROWELL: I may say that this particular matter came before the Committee. After a discussion by the members of the Bar Association the conclusion was reached that this clause in the Report was right and sound, and they could not see their way clear to depart from it.

Mr. LADNER: But you make the general suggestion that the cost of living is higher in the city; it leaves us without any information, but should that principle be carried out by this Committee on the basis on which you suggest it should be carried out?

Hon. Mr. ROWELL: We do not furnish any basis, we only express the general view, and leave it to the government and the Committee of Parliament to determine what it should be.

Mr. LADNER: Does the Bar Association intend to furnish any data upon which a conclusion can be reached upon this question?

Hon. Mr. ROWELL: I do not think it is the intention of the Committee to submit any further data. I have not heard of anything further being submitted. If there is anything we can furnish, we will be glad to do so. I am not aware of anything. I may say this, that we have been furnished by the Judges of the City of Toronto with a resolution passed at a meeting of the County Judges' Association of Ontario at the Annual Meeting held in Toronto, May 20th.

1927. This is not part of our Canadian Bar Report, but you have asked the question, and I have this resolution before me. It says:

That in any approach to the Governments of the Dominion and the Province for a general increase in the salaries or remuneration of the County and District Judges, this Association readily concedes that special consideration should be given to conditions affecting the Judges of the County of York.

JOHN S. CAMPBELL,
Secretary.

I do not know whether that relates to work or to the cost of living, or both, but that is a resolution passed by the County Judges' Association of Ontario, as I am advised, and a copy has been furnished to me.

Mr. BOYS: Do you know who was present when that was passed?

Hon. Mr. ROWELL: I do not know who was present; all I know is that it is a resolution furnished to me over the signature of Judge Campbell, the Secretary of the Association.

Mr. BOYS: While I do not want to go into any more details on this question than we have to, the way it is left now is not very satisfactory to me; the rest of the Committee can read it for themselves. You have read paragraph 3 of the Report of the Canadian Bar Association, and you are here to present it. What it says is that the Committee is much impressed by the necessity for an increase in the salaries but that they are unable to recommend a uniform increase. It says further that it is the opinion of the Committee that the Judges of these Courts in the large centres of population, where the cost of living is high and the volume of work great, should be increased up to \$9,000 per annum. If we are to seriously regard that recommendation, I think we ought to be told what is meant by large centres of population.

Mr. LADNER: That was the real purpose of my question.

Mr. BOYS: Is it confined to centres such as Toronto, Hamilton, Windsor, Ottawa, and similar places?

Hon. Mr. ROWELL: Well, Mr. Boys, our Committee did not undertake to define that. They were expressing a principle, and they felt that the Government, or the Committee, whoever it was that would investigate the details would determine. But we did think there was a distinction between the large and smaller centres of population. We did not have in mind limiting it to one city, but the Committee did not define and the Bar Association did not define and I cannot define any more clearly than I have the interpretation of that clause.

Mr. TOTZKE: Was it the opinion of your Committee that the difference in the salaries should be based on the cost of living, or rather on the amount of work? Which was the more important, when under consideration?

Hon. Mr. ROWELL: I would not say that it was the opinion of the Committee that those two should be the whole consideration in either case. I may say that it was represented to the Committee that in the larger centres of population so far as County and District Court judges are concerned, they had more work to do than the judges in the rural districts, and they also, in the view of the Committee, had a higher cost of living. Now, that is the general view of the Committee, but in any case, there are more considerations, we feel, on the whole question of appointment, than simply those two considerations. The other large considerations I have mentioned.

Mr. HAY: Is there any variation in England or in other British dominions that the judges are paid according to their jurisdiction, or avoirdupois?

Hon. Mr. ROWELL: Well, I am not aware of any distinction in England, except the big distinction between the High Court judges, who all live in London, and the County Court judges who live throughout England. And there, of course, there is a tremendous difference.

Hon. Mr. LAPOINTE: But they have the same jurisdiction?

Mr. LADNER: No, they have different functions.

Hon. Mr. ROWELL: Quite well recognized different functions.

Mr. CARMICHAEL: I think, Mr. Chairman, Mr. Rowell started to give a general survey, from which he has been diverted. Why not permit him to complete his survey and then these other questions could be discussed.

Hon. Mr. ROWELL: I was going on to read the last section of our report on page 6.

By Section 100 of the British North America Act the salaries of the Superior, District and County Courts are to be paid by the Dominion, and the Committee would regret that a system should grow up that seems to prevail elsewhere, of making special grants by provincial or municipal authorities in order that adequate salaries might be paid.

Now, that is the reference to the New York and other situations.

As the report submitted indicates, the Canadian Bar Association is of opinion that the salaries paid by the Dominion should cover all services and that payment for special services under Statutes or otherwise should be discontinued. This would not apply, and it was made clear at the Bar Association, that it was not intended to apply, to prevent judges of the Provincial Surrogate Courts, from receiving the remuneration paid by the provinces to the judges of those courts.

Now, our general view of the County Court judge situation is that the present salaries are inadequate, and that there should be a substantial increase in the salaries.

The point on which we are not able to see eye to eye with the County Court judges—and I mention it not for controversy, but just to state our position,—we are not able to see eye to eye that it necessarily follows that there should be the same salaries for all the County Court judges.

Mr. BELL (Hamilton): Did the Committee of the Bar Association give any consideration to the fact that in some four or five counties of Ontario, for instance, there are four sittings during each year for the trial of cases with juries and criminal sessions of the peace, and outside of those four or five counties, they have two only. Did the fact of the volume of work which appears to be double in those four or five I alluded to have any weight at all with the Committee?

Hon. Mr. ROWELL: I do not think, Mr. Bell, that the Committee went into that detail at all. It may be said they should have. They simply reached a general conclusion as to their view. We did not for a moment assume that the Government and province would not consider all these matters, and make its own independent investigation, and satisfy itself on all these points. All we could deal with was a general representation embodying certain principles which we thought should be applied.

Mr. Boys: I presume the Committee which reached that conclusion was composed of the members whose names appear on the last sheet of your memorandum?

Hon. Mr. ROWELL: Yes.

Mr. Boys: I notice that with one exception every one of them comes from a large centre; and even that one comes from a city.

Hon. Mr. ROWELL: Mr. Boys, that is correct with this exception. The Committee of the Canadian Bar Association that made the report is not the same as this Committee. This is the committee that was appointed by the Canadian Bar Association to review the report of the other committee, and present it to Parliament, but those committees both reached the same conclusion.

Mr. Boys: I would like to make this clear if I can. Was the sub-committee that acted then composed of men who practically all were representatives of the urban Bar.

Hon. Mr. ROWELL: If you will let me explain it, Mr. Boys, there are two committees. The Canadian Bar Association appointed a committee.

Mr. Boys: That is the one whose names appear at the back of this memorandum?

Hon. Mr. ROWELL: No, just a moment. The association appointed a sessional committee, if I may so describe it; a committee which sat during the session of the Bar Association, and which presented its report, which is embodied in this memorandum. Then, it appointed another committee. It is quite true that many of the members were the same on both, but not all. It appointed another committee to consider the matter and present it to the Government. The committee, whose names you see here, is the committee appointed to review the report of the Bar Association, and present it to the Government. I have forgotten the names of the members of the other committee, but I know a great many are the same.

Mr. Boys: I have not quite understood that yet. What is the membership of the last committee to which you refer?

Hon. Mr. ROWELL: The last committee is the committee here. This is the last committee.

Mr. Boys: Then, my statement is right, that the committee that actually dealt with this is the committee the names of whose members appear at the back of the memorandum, and that, with perhaps one exception, they are every one from a large centre.

Hon. Mr. ROWELL: Well, I do not want again to argue the matter, Mr. Boys. The committee which made the report which was submitted to the Bar Association was not this committee, although many members are the same.

Mr. Boys: Can you tell me who they were?

Hon. Mr. ROWELL: I cannot.

Mr. Boys: You know yourself whether I am right or not. I do not want to argue it either, but I want to get the fact. Is it the fact that that committee was composed of men almost entirely from the large cities?

Hon. Mr. ROWELL: I will try and recall. It is months ago, and if the committee wants it, I will give the exact personnel of that committee. If you ask me to remember now the exact names of a committee which sat some months ago, I cannot.

Mr. Boys: I feel confident that if there was a member of the rural bar, he would have had something to say regarding the work of a judge in a rural district. Was there any one on the committee who presented anything that could be called an argument on their behalf?

Hon. Mr. ROWELL: Yes, Mr. Jeffrey of Guelph, who is here; Mr. Patrick of York. They were on the committee. At the moment, I cannot recall others but there may have been others. I really cannot recall them because they were appointed from the different provinces, and as I say, I believe a substantial number of the same members were on both committees. It may be that the most of them are the same on both committees.

Mr. TOTZKE: The report was adopted at your general session.

Hon. Mr. ROWELL: There are two things, if I may explain. There is a resolution on the first page which was adopted in principle at the general session. This memorial was adopted by the Committee whose names appear on the back, and when it was adopted in principle, it was taken that that principle included the salaries mentioned in the report, but with power to amend the paper, and present it to the Government.

Mr. LADNER: Mr. Rowell, on page 6 in the last paragraph, these words appear (reading):—

As the report submitted indicates, the Canadian Bar Association is of opinion that the salaries paid by the Dominion should cover all services and that payment for special services under statutes or otherwise should be discontinued.

Now, for the purpose of the notes, would that cover such things as Surrogate Court work, and the extra amounts paid by the provinces for it?

Hon. Mr. ROWELL: No, it is expressly noted there, Mr. Ladner, in the same paragraph at the bottom of the page, that it was not intended to apply to prevent the judges of provincial Surrogate Courts from receiving the remuneration paid by the provincial governments to judges of that sort.

Mr. LADNER: Why do you except that? Many provinces do not have that. In British Columbia the Surrogate Court work is carried on by the Supreme Court judges, and not the County Court judges.

Hon. Mr. ROWELL: Well, there were several members of the committee who were supporting the view of the County Court judges, and who urged upon the committee that that should not apply to Surrogate fees. That was an exception made in favour of County Court judges at the request of members of the committee that were sympathetic to the view of the County Court judges.

Mr. LADNER: What does the extra remuneration, apart from Surrogate Court fees, refer to, so far as the work is concerned? What services does it cover? I am asking the question for the purpose of the notes.

Hon. Mr. ROWELL: I can only speak for Ontario. At our meeting, other members of the Bar spoke for certain other provinces. In Ontario, all the judges of the High Court receive \$1,000 a year for services performed under the statutes, and so on. I have forgotten just the language of it. That has been the case for a great number of years.

Mr. LADNER: It is a lump sum for all statutes.

Hon. Mr. ROWELL: For work done. A lump sum of \$1,000 a year. I think the County Court judges receive an equal amount. In certain centres, I think that it is somewhat more. I think it was presented to you in the information given by Judge O'Connell from Toronto, was it not?

Mr. BOYS: The senior judge there gets \$2,600, and the others \$1,500. The judges of the counties get \$1,000. Where there are two judges, the second judge, provided business warrants it, gets two-thirds of that, \$666.

Hon. Mr. ROWELL: Yes, that is the situation as far as I am aware in the province of Ontario, Mr. Ladner. I cannot speak of any other provinces.

Mr. CARMICHAEL: Mr. Rowell, before you go on to another point; in reviewing the salaries paid to the higher court judges in Canada, you compared them with similar salaries in Great Britain, or at least in England, the Irish Free State, Northern Ireland, and so on. But, in giving us your outline of the salaries paid to County or District Court judges, you did not do so. Have you any information to show us the comparative salaries paid in Canada and in these other British possessions for similar work?

Hon. Mr. ROWELL: The only figures I have to turn to here—and I think probably the comparison is not a fair one—is the County Court judge salaries in England, which are £1,500.

Mr. CARMICHAEL: You have not got the salaries for any of the other British possessions?

Hon. Mr. ROWELL: No, we have not got them for the other British possessions. Of course, there is not the same system of courts in all the different British possessions. There is not the same system of courts throughout Canada in that respect. There is substantially, except for the province of Quebec. That could all be obtained, and if the Committee desire it, I will endeavour to get the information in reference to the courts, so far as they approximate the County Court situation.

Mr. BELL (Hamilton): Mr. Rowell, do the County Court judges in England have the extended jurisdiction that they have in the province of Ontario?

Hon. Mr. ROWELL: I do not think they have. And as I say, the Canadian Bar Association has not brought forward the salaries paid to the County Court judges in England. That is not in our memorandum. I have only given it in answer to a question.

Mr. BELL (Hamilton): As I understand from you, the reason is that the work is not really comparable.

Hon. Mr. ROWELL: No, I did not say that; but in the first place, I do not think it would be possible in this country to have such a relation between the High Court and the County Court as that disclosed. We would be entirely opposed to it. The Canadian Bar Association would be entirely opposed to any such relation between the two. Their jurisdiction is not, I believe, as large, but they have a very important jurisdiction in England. It has not been increased as it has been in Canada; and for the two reasons we have not brought it forward, because we do not think it is a fair comparison. Now, I think I have covered the matter, so far as our memorial is concerned. I would like the Committee to hear Mr. Lafleur, and Mr. Anderson, who are here.

The CHAIRMAN: Mr. Lafleur.

Mr. LAFLEUR, K.C.: Mr. Chairman, and members of the Committee; There is really very little to add to the very full and lucid statement made by my friend Mr. Rowell. I only wish to say, coming from Quebec, that the members of the Bar Association of that province are entirely in accord with what my friend has put before you. I do not suppose there is any city in the Dominion where the discrepancy between the income and expenditure has been felt by the judiciary as acutely as in my own city of Montreal. There was a time, and I can remember it, when the judges were getting \$5,000 a year, and they held their own; they were able to live in dignity and comfort on that salary. It represented as much as a successful barrister would expect to get from the practice of law in Montreal; and I am sure the Minister of Justice can make a similar statement as to his own city of Quebec. I think the proportion was pretty well kept in those days, when there was a statutory salary of \$5,000 in the city, and \$4,000 for all the rural districts; there was a fair proportion kept between professional income and the judges salaries. At any rate, a judge was able to keep up a certain mode of living which was in keeping with his high position. He was able to repay invitations which he was bound to accept, and now, in my own city, at any rate, I can assure you that \$9,000 is not a living wage for a man in the position of a High Court judge.

Mr. LADNER: How long ago, Mr. Lafleur, would that be that you refer to when the salary was \$5,000?

Mr. LAFLEUR, K.C.: That goes back to the early days of my practice. I have been at the Bar now for 47 years. When I came to the Bar, that was the condition, and it continued for some time after. It took quite a long time to re-adjust the salaries. Of course, professional incomes, which are not regulated by Statute, adjust themselves to the higher cost of living. The professional incomes from the city are greater than they are in the rural districts. That is simply an economic situation which develops of its own accord. But, when you restrict the judicial salaries and they remain fixed for a number of years, there is bound to be a discrepancy and the position has really become very acute. Now, I do not want you to imagine, Mr. Chairman and members of the Committee, that I hold a brief for the judges of our Supreme Court in Quebec. They are not appearing before you as supplicants; but of course, I will not deny that they must be deeply interested in the results of your deliberations, and in any action which may be taken in consequence thereof. This movement for an increase of judicial salaries originated with the Bar Association, and not with the judges. And, I put it to you that we are doing this not merely to do justice to those who are actually occupying these high positions, but for the future. That is the important thing. We do not want, for instance, to continue in a course which really discourages men of ambition and of ability at the Bar from becoming candidates for judicial positions. That is the most serious aspect of the whole thing. We cannot hope, of course, to give salaries which are at all equivalent to the income of successful professional men, any more than we can make judges as wealthy as the merchant prices that entertain them, and, that they would like to entertain occasionally themselves. But, having regard to that, is it not desirable that you should give them an adequate living wage?

Now, just one word about the position in Quebec, with regard to the two classes of judges. We have the Supreme Court judges who get \$9,000 a year; and then we have the Circuit Court judges who get \$7,000 a year. Now, we have Circuit Court judges only in the cities of Montreal and Quebec; a very small number of them. The Supreme Court judges do all the Circuit Court work, that is, all the County Court work throughout all the rural districts. That has to be borne in mind. And when you talk about the number of Supreme Court judges in Quebec, you have to remember that the judges who occupy that position do the work of those two courts, and it is only in the cities that we have appointed Circuit Court judges and there, I think, a salary of \$7,000 a year for a Circuit Court judge is inadequate; it is not a living wage. A Circuit Court judge is not able to live as his people—those with whom he is called upon to associate every day—are living. For all these considerations, I would very strongly support the application which has been made by the Committee of the Bar Association.

Mr. LADNER: Mr. Lafleur, I was going to ask about the special allowances made by the provinces. In Quebec, are there allowance made by the province to the various judges?

Mr. LAFLEUR, K.C.: We have no special allowances.

Mr. LADNER: That is all the judges, both the Superior and County Court judges, receive from the Dominion Government their total income?

Mr. LAFLEUR, K.C.: Their total income, and of course, they pay income tax on it.

The CHAIRMAN: There are no County Court judges in Quebec.

Mr. BOYS: In cases of a personal nature involving amounts under \$100, they really have not got anything like the jurisdiction of a Police Magistrate?

Mr. LAFLEUR, K.C.: Even that is not the whole statement, because cases in which future rights are involved may be sent from the Circuit Court to the

Supreme Court. If there is any title to land involved, or future rights involved, they may be taken away from the Circuit Court because they would affect future cases, so that their jurisdiction is very limited.

Hon. Mr. LAPOINTE: There are only four of them, I think. There are no Circuit Court judges in Quebec. They are limited to Montreal.

Mr. LAFLEUR, K.C.: I thought you had two Circuit Court judges in Quebec. Then, it is confined to Montreal?

Hon. Mr. LAPOINTE: Yes, entirely.

Mr. LAFLEUR, K.C.: In Montreal, there are four, and a Chief Justice. That is a very limited number, and that does not present the problem of differentiating between rural districts and the city, because all these are concentrated in the one city, and that is a city—I think the Hon. Minister will agree with me—where the cost of living has gone up phenomenally, and where the discrepancy has been felt most acutely.

Mr. CARMICHAEL: Mr. Lafleur, another question which was raised here with the previous witness. Have you any suggestions to make to the Committee whereby in the appointment of judges, there might be any added precautions to make sure that the best selection is made?

Mr. LAFLEUR, K.C.: I think some benefit would result from unofficial action, if it were the practice of the Government to appoint judges on the recommendation or approval of the Bar Associations throughout the Dominion. If, at any rate an unofficial communication were made, I think it would mitigate the evil of what I may call, injudicious appointment; but of course, responsibility has to be taken by the Government, you cannot by Statute compel them to submit their nominations, or their proposals to any other body.

Mr. SANDERSON: That would make the Bar Association a rather close corporation, would it not, if the appointments were made in that way?

Mr. LAFLEUR, K.C.: Well, I assure you that, as far as the Bar is concerned, they are only too anxious to get good judicial appointments, quite independent of politics, or favour or anything of that kind, and I am sure that some good would result from unofficial conferences between the Government and the Bar Associations.

Miss MACPHAIL: Mr. Lafleur, do you believe that brilliant men at the Bar make the best judges?

Mr. LAFLEUR, K.C.: Not always, no. Some very distinguished barristers I think, would make very poor judges. It has been the subject of observation, that men who were not specially distinguished as advocates, have the judicial qualities which are necessary for the filling of that position.

Miss MACPHAIL: Then the desire is to raise the salaries in order that we will get better judges? If you thought that the most brilliant men at the Bar would make the best judges, I see no hope of getting them, because in the first place they make such princely salaries that we could not hope to equal them, and in the second place they might not be the favourites of the Government in power at the moment. When we are asked to increase the salaries of judges to get better men, do you not think we should safeguard the appointments, and as you suggest, we would not have any assurance that a better salary would get us better men. Do you think it would?

Mr. LAFLEUR, K.C.: In the first place, I think it is a duty to give a living wage to the people who have accepted the positions, and are filling them now. That is my first point. Then, I submit that you should not discourage the people who are competent for the position and who have the ability to fill those positions with credit. You should not discourage them from taking such positions.

In other words, do not make the salary prohibitive. You cannot make it adequate if you compare it with the emoluments of the successful barrister, or the successful merchant. That is out of the question, and I am not suggesting that, but do not make it so low that a man really has to change his mode of living. I have known more than one man who has been obliged to decline because he was living, not on an extravagant footing, but spending in Montreal about \$15,000 a year. Well, he was asked to come down to \$9,000. He had undertaken obligations, he had accustomed his family to live on a certain footing. It is not in human nature to accept a position which involves such a complete reduction of your general style of living.

Mr. SANDERSON: He would not be the only applicant at that time, and he would not be compelled to accept the appointment.

Mr. LAFLEUR, K.C.: No. The trouble is that if you have many applications, it means that instead of the position seeking the man, the man is seeking the position, and applicants as a rule are not the best men; that is, those who apply on their own behalf, and who are not the nominees of professional bodies, are not the proper persons to appoint. I speak of that as a general rule; there are exceptions, but as a rule, the people who run after positions are not the ones in most cases who deserve them.

Hon. Mr. LAPOINTE: And they usually do not get them. As far as I am concerned, those who run after them do not get them.

Mr. LAFLEUR, K.C.: I am glad to hear that.

Mr. CARMICHAEL: As a matter of fact, Mr. Lafleur, is it not the case that in Canada, for every vacancy among the judges, there are scores of applicants?

Mr. LAFLEUR, K.C.: No, I do not think that is the case.

The CHAIRMAN: If we made the salary \$2,000, there would be scores of applicants.

Mr. HAY: Your point is, that you want the salary to be in keeping with the position of the occupant of the office?

Mr. LAFLEUR, K.C.: Yes.

Mr. HAY: Disregarding the applications, it is up to the Government to secure qualified men.

Mr. LAFLEUR, K.C.: Yes. I entirely concur in what Mr. Rowell has put before you as to the desirability of keeping the office one of dignity and thoroughly independent. That really is the reason why British justice is so respected throughout the world.

Mr. BOYS: You have brought the thought of approval, recommendation, or some thing of that sort from the respective Bar Associations, I suppose you mean of the counties or of the provinces. Would you care to make to this Committee any concrete suggestion along that line? I may say that I am in entire accord with your suggestion, and I will go so far as to say that no man should be appointed who cannot get the approval of the Bar Association of his own county. I do not want to ask an embarrassing question of you, but if you care to give to me personally or to the Committee your own view upon it, I would be glad to profit by it.

Mr. LAFLEUR, K.C.: It is hard to formulate a plan which would be satisfactory; it has to be unofficial action. The Government cannot be required or expected officially to share its responsibility with any other body. The statute requires them to take the responsibility for the appointment.

The CHAIRMAN: It would require an amendment to the British North America Act.

Mr. LAFLEUR: I know that they do not infrequently consult members of the profession and members of the Bar Association, but I only suggest that as being a mitigation.

Mr. BOYS: I will venture to say that when the party I have the honour to support consults anybody, they consult some mighty good Tory, and when the Reform party consults anybody they consult a mighty good Reformer.

Miss MACPHAIL: Hear, Hear. There are no exceptions to that.

Hon. Mr. LAPOINTE: Do you think the Canadian system of appointment has worked well as a whole?

Mr. LAFLEUR: I think so. I do not think as a whole that any complaint can be made against it. I think we have had wonderful service from our Judges. The administration of justice has been pure and unbiassed, except in very rare cases. There has not been a single case of impeachment in the whole judicial history of Canada.

Mr. BELL (Hamilton): It would not hurt if we had the recall?

Mr. LAFLEUR: No.

Mr. HAY: Would the lobby not be more intensive if they came on the recommendation of the local Bar or the Dominion Bar Association than under the present system?

Mr. BOYS: I am not for one moment suggesting that any government should have to take the recommendation of any Bar Association; my suggestion is that before the Government makes an appointment the appointee must be a person who can get the approval of the Bar with whom he practises.

Mr. HAY: But it would mean a lobby?

The CHAIRMAN: Perhaps the argument is going a little far afield.

Hon. Mr. LAPOINTE: I do not think you are right in saying that there is such a lobby. There is none, and there has been none in my experience as Minister of Justice, for the very good reason that if any man thinks a lobby will help him, it will block his way to an appointment.

Mr. BOYS: I do not say that we do, in the main, get good men, and good appointments, but I say that the appointments made are beyond doubt political appointments. Speaking not particularly of the present government, but of all governments of Canada, we know what happens; as soon as a vacancy occurs, letters come in from political friends. I will not say always, but there are frequently men who command the influence of men who have been associated with them in politics. In the main we know that the appointments are political. Now, if we are going to get good men—and I am in favour of even men who are leaders of the Bar who are not being rewarded for political service—they should have the recommendation or approval of their respective Bars. By that I mean that where a man seeks a County Court Judgeship he should have the approval of his Bar, and if it is a Dominion appointment he should have the approval of the Executive of his province. I recognize, as Mr. Lafleur says, that the responsibility is with the government, and that that responsibility cannot be shared, but I cannot see why that should not go with a recommendation which should precede the appointment.

The CHAIRMAN: We have exceeded a little the scope of our order of reference.

Mr. BOYS: I do not know. I think we can make recommendations.

Mr. CARMICHAEL: I think the question is very germane, particularly when we are paying the salaries.

Hon. Mr. LAPOINTE: Do you not think, Mr. Boys, that what Mr. Lafleur says is correct, that our system of appointment, as far as the results are concerned, compares favourably with the system of any other country?

Mr. Boys: I have no doubt of that.

Hon. Mr. LAPOINTE: Personally, I think our judicial appointments are very good. We have been pretty careful in appointing men who were qualified, and our Judges have always given a good account of themselves in the eyes of the world.

Mr. SANDERSON: In other words, there are good men in both parties?

Hon. Mr. LAPOINTE: Exactly.

The CHAIRMAN: Who is the next to speak?

Mr. E. ANDERSON, K.C. (Winnipeg): Mr. Chairman and gentlemen, my appearance here is entirely accidental, therefore I have not come for the purpose of submitting any argument, certainly not any very extended argument in connection with the matter now before your Committee. However, I can tell you in a general way what the feeling of the Bar of Manitoba is. As President of the Bar Association of Manitoba, I know that this matter has been before our Law Society on numerous occasions. The Bar of Manitoba is certainly in favour of increased salaries for the Judges. Just as a bit of generalization, there is not any doubt at all but that the members of the profession at large are anxious that the very best men should be appointed to the Bench. They recognize, as perhaps no other section of the community recognizes, the importance of men of absolute impartiality and ability being appointed to the Bench, and for that reason their opinion upon the matter of increased salaries as well as the important question of the method of appointment should receive a great deal of weight. We in Manitoba are in favour of increasing the salaries of the Judiciary, both of the Superior and County Court Judges. I am not going to attempt to elaborate what my friend Mr. Rowell has given to you. I did not hear all that he said, because I came in just as he was closing, but I am sure, knowing his capacity for details and his industry, that he has submitted almost every argument that could be submitted in favour of the application.

As to the method of appointment, I was very much interested in that, because I have for a long time felt that there is room for improvement on that score. I quite agree with the Minister of Justice that by and large the appointments to the Bench in Canada have been good appointments, and that the Bench stands up well as compared with that of other countries, but I feel that we can still improve upon it. As far as our Law Society is concerned, we feel that it would be extremely to the advantage of the public and of assistance to the government if the Law Societies were consulted in some unofficial way in regard to appointments. Our Society feels somewhat strongly upon that question, and I am voicing the sentiments of the members of that Society when I say that we do feel that a great deal of assistance could be obtained by the government from consulting with the official societies in the various provinces. After all, as I said a moment ago, the object of the lawyers, and particularly the official societies, is, to see that the very best men are appointed.

This question of an increase in salaries is only one of the steps, and in so far as it is a step, in my opinion it is a step towards obtaining the very best men available. That is a suggestion to the Committee, and we hope the Committee will give it due consideration.

In case this point has not been mentioned, I might mention that there has been an agitation in England for an increase in Judicial salaries. We know that the salaries of Judges there are perhaps higher than those of any Bench in the world, yet even there there is an agitation for an increase of salaries, because there has not been an increase for a great many years, and the present salaries are out of all proportion to the income obtained by the average leading members of the Bar.

Miss MACPHAIL: Is that not the difficulty? No matter what salary a man is getting, he wants an increase. If the salaries in England are not high enough, it is hopeless for us to do anything.

Mr. ANDERSON: They are not in England.

Miss MACPHAIL: In England they are not high enough?

Mr. ANDERSON: You are quite right, human nature is never satisfied. A man is not satisfied with what he gets. But the salaries in Canada are not up to the average standard. What we are aiming at is, to get the very best men on the Bench.

Miss MACPHAIL: People like the members of the Committee here, all of us representing the people of Canada, some representing one kind and some another, are a bit mixed up in our constituencies, and we must remember that the Bar Associations and Judges are not the only people who would like their standard of living raised, yet it is not so easy to raise the standard of living for the labourer or the small business man as it is for the Judges. Is that not a factor in this whole thing? It is not a question of comparison with other countries; it is a question of what other people are able to make.

Mr. ANDERSON: I do not know that that is exactly the point. There is no doubt, Miss Macphail, that the standard of living has increased, especially in the country, and the salaries of the judges have not increased proportionately with the incomes, not only of lawyers but of a lot of other people in the community, including perhaps a great many people not directly farmers or people dependent upon the farmers.

Miss MACPHAIL: If you told the farmers of South Grey that \$9,000 was not a living wage, they would die of amusement. They would be glad of one-third of it.

Mr. ANDERSON: You cannot put everybody on the same plane.

Miss MACPHAIL: I do not put farmers below any plane there is.

Mr. ANDERSON: No, certainly not.

Mr. LADNER: In the province of Manitoba, are there special allowances granted to the Superior and County Court judges?

Mr. ANDERSON: Not the Superior Court judges. I do not know of any special allowances there. The County Court judges get some allowances for Surrogate Court work.

Mr. GERSHAW: How much a year?

Mr. ANDERSON: I do not know.

The CHAIRMAN: That has been all put in the memorandum that has been filed this morning. Has Mr. Henderson or anybody else anything to say?

Mr. BOYS: Mr. Chairman, Mr. Nicol Jeffrey, K.C., of Guelph, is present. He is a member of the committee, and I may say frankly that he was the one member of the rural bar that I mentioned. I move that he be heard.

Mr. NICOL JEFFREY, K.C.: Mr. Chairman, I do not know that I can add anything profitably to what has been said by Mr. Rowell and Mr. Lafleur.

The question has been raised as to whether the County Court judges were considered by the committee. They were considered by the committee. Mr. Bell referred to the fact that in Hamilton they now have four courts a year, whereas in Wellington we have only two courts a year, besides the Quarter Sessions. The jurisdiction of the County Court judges has been greatly increased. Four or five years ago many cases that were disposed of by the High Court judges are now disposed of by the County Court judges. There is no doubt that the County Court judges are now playing a more important part in the administration of justice than they did before.

The question has been raised as to whether the County Court judges of one district did not do more work than was done in any other district. In Hamilton I assume they do more than is done in Wellington. That might apply to Windsor also; whether it applies to Ottawa or not, I do not know, but it does apply to Toronto. The difficulty is where are you going to differentiate between County Court judges in regard to salaries? You may have just as good judges in Essex as we have in Wellington. How are you going to differentiate between them? It is a very hard thing to work out, and that is the reason Mr. Rowell stated here the difficulties that are in the way. That is the real difficulty we have in making any recommendation except along general lines. In connection with the County Court judges, I can assure Mr. Boys that the interests of the County Court judges were considered, and fairly considered, but we could not differentiate, and we leave it to this committee to decide whether there should be any distinction made between them.

With everything that Mr. Rowell has said, I am thoroughly in accord. I was rather struck by a remark made by Miss Macphail, as to the standard of living in a farming district, a farming community, and that a farmer would think he was very well paid if he got \$3,000 a year. That is quite true. But unfortunately you cannot go to the farming community and pick out a judge. Judges are men trained at the Bar. They are only elevated to the Bench by reason of their legal training. They have to live in cities, and they have to have a certain standard of living.

I also agree with what Mr. Lafleur and Mr. Anderson have said. It is not altogether a question of salary, it is an important and a vital step, to get the best possible men you can. Only real good men will sacrifice their interests, leave the Bar, and you can only get them by providing reasonable salaries, to go on to the Bench. I know that judges have made sacrifices by going on to the Bench; they have discharged their duties on the whole very well. They have been perfectly willing to make that sacrifice in order to go on to the Bench.

Mr. Boys: Just as a matter of information in regard to the jurisdiction of County Court Judges in your county, as you are aware, under the amendment of 1920 or 1921, I do not know which, they now have unlimited jurisdiction where consent is given. I wanted to ask you this question: In your county is it the practice of the members of the profession to utilize that to get cases tried that otherwise would have to be tried by the Supreme Court Judges?

Mr. JEFFREY: Frequently.

Mr. Boys: You still issue writs in the Supreme Court?

Mr. JEFFREY: I issue writs in the Supreme Court very rarely since that has been in force. I know of only one case in the county of Wellington where a writ has been issued in the County Court to which any objection has been made.

Mr. Boys: I may say that I issue every writ in the County Court.

Mr. JEFFREY: That shows the confidence you have in the County Court judges.

Mr. Boys: I do it from the point of view of the convenience of my clients. I just wanted to find out whether the practice was adopted in other counties as well as my own.

Mr. JEFFREY: Since the Act of 1920, which gave increased jurisdiction, cases of very much greater importance are now disposed of there than previous to the Act being passed.

Mr. LADNER: I believe Mr. George Montgomery, K.C., of Montreal, is one of the Committee of the Bar Association. He is present this morning.

Mr. BELL (Hamilton): Mr. Jeffrey, having regard to what has been said about the volume of work and so on, you came to the conclusion in your Committee that the maintenance of the office of any of them imposed as much upon

the Judges in one place as in another, that there was no important distinction to be drawn between Judges maintaining the dignity of their office in the County and those in the city.

Mr. JEFFREY: The word "dignity" is such a wide term that I do not know what construction should be put upon it. Is it the dignity of the position?

Mr. BELL (Hamilton): In part.

Mr. JEFFREY: I do not know whether Mr. Rowell thought that the cost of living was as great in the country as it was in the city. I cannot think that that is true. Our Committee did give that due consideration. I cannot think that a man living in the city of Guelph, living as I do, not extravagantly—if I were living in the city of Toronto, on the same scale, it would cost me more money. There is no question about that. But take a country town like Guelph, or Peterborough, which Mr. Gordon comes from, I think the cost of living there is not very high; it is not too high. It is not so high as it is in the city of Toronto or some other places.

Mr. BELL (Hamilton): Excuse me, Mr. Chairman, I just wanted to get that.

Mr. GEORGE MONTGOMERY, K.C.: I do not think, Mr. Chairman, that I would be justified in taking up any of your time, inasmuch as I really have nothing to add to what Mr. Lafleur has said. I was a member of our local Bar Association when this subject came up for consideration, also of the Bar Association of the province. I can only assure you that you not only have these resolutions, but that these resolutions not only represent the individual views of the members, they represent also the unanimous view of both the General Council of the Bar of Quebec and the Local Council of the Bar of Montreal.

I do not know that there is any special information I can give to you.

Mr. LADNER: Mr. Chairman, some discussion has taken place with reference to a difference between City and County Court Judges, the County Court Judges saying that no difference should be made in the increased salaries. The Canadian Bar Association, which purports to some extent to represent the Bar Associations, recommends a difference. We have before us Mr. G. N. Gordon, K.C., an ex-Speaker of the House of Commons and a prominent member of the Bar. He comes from what some have termed a country locality. I suggest that we have a statement from Mr. Gordon, relative to that or any other question that any member of the Committee may desire to ask him upon other matters.

Mr. G. N. GORDON, K.C.: Mr. Chairman and members of the Committee, dealing just for the moment with the question of County Court Judges' salaries, in the Old Country there is a very great disparity, as Mr. Rowell has said, between the salaries of the High Court Judges and County Court Judges. It must be remembered that the social position of an Old Country High Court Judge is very high indeed. He has his butler, and has to entertain and so forth, and when a member of the Canadian Bar goes over there there is a very expensive entertainment. But between our County Court and High Court Judges here, there is not so much difference. In my county, and in the adjacent county to which my practice extends nearly all the writs we issue are tested in The County Court. To some extent our assizes have petered out until there are practically no assizes at all. We have had assizes at Peterborough where we had but one case.

In county towns like Peterborough, Brantford, Guelph and other places, the Judges must keep libraries. The counties have not provided libraries, but County Court Judges must have them. That does not apply to the High Court Judges, because they have the benefit of the law libraries in the cities.

In the Province of Ontario there has been a great deal of labour loaded upon the County Court Judges, by the extended jurisdiction, as pointed out by Mr.

Bell and Mr. Boys, to the extent that practically every action is brought in the County Court unless it is objected to by the defendant.

The CHAIRMAN: Is this the only province in which that extended jurisdiction obtains?

Mr. GORDON: I am not able to say.

Mr. LADNER: That extended jurisdiction applies to British Columbia.

The CHAIRMAN: Unless the parties object.

Mr. LADNER: Yes.

Mr. GORDON: Then there is the County Court Judges' Criminal Court. The information I have been able to obtain upon enquiry is that 80 per cent of the cases that pass the preliminary enquiry are tried in Ontario in the County Court Judges' Criminal Court without a jury.

Mr. BELL (Hamilton): Easily that.

Mr. CANTLEY: What is the practice in the other provinces?

Mr. LADNER: It is the same in British Columbia.

Mr. GORDON: In our criminal cases, instead of waiting for the assizes, these cases are dealt with by the County Court Judge, invariably. In addition to that, there is this feature, this advantage, that the trial may be fixed for a certain date, and the witnesses are not required to wait around perhaps a week, as in the case of an assize, before they are called. In the County Court Judges' Criminal Court a date is set and the trial proceeded with, which is a very great advantage to all parties concerned.

In Ontario, under the Landlord and Tenant Act, all disputes are tried by the County Court Judges. All the mechanics' lien actions, in a great city like Guelph, where my friend Mr. Jeffrey comes from, where there is a great deal of building, are triable by the County Court judge.

There is also an Act which the municipalities are taking advantage of, that is, the Act governing cases of children of unmarried parents, they are tried by the County Court Judge. Every Judge, in order to avoid publicity, tries to bring home to the seducer the responsibility, if he can do so. Those cases are all disposed of by the County Court Judges. The custody of infants, the maintenance and support of parents, which is a new Act under which children may be compelled to support their parents, in which the amount to be paid by the children is disposed of, and appeals from Magistrates are also disposed of by County Court Judges. When a man has to go to gaol, he appeals. Then there are the various civil cases that, as I said before, are tried because it is a matter of convenience and a saving of money for the litigants.

These positions of the County Court judges are not only very important, but in addition to that it is very, very essential that where it is a question of the liberty of the subject, and property rights to a very great extent must be dealt with, that men should be selected who are capable of dealing with these cases and have the ability to dispose of them. I had in my office yesterday, before I came down here, one real estate transaction, and the fees in it were \$172. I had to pay something at the registry office. And, young lawyers are practising in the smaller cities to-day, and within three or four years of their starting to practise, are making \$4,000, \$5,000, and \$6,000. And, when you have men who are on the Bench, dealing with all these important issues, and very important issues, by reason of the extended jurisdiction of the County Court, it seems to me to be very essential indeed that men should be obtained and selected who can be entrusted with these very important decision, so that the lawyers and litigants can go before them with absolute confidence that they not only have the ability, but that they have the knowledge to deal with these various matters that come before them.

Hon. Mr. ROWELL: Mr. Henderson is here, Mr. Chairman.

The CHAIRMAN: Mr. Henderson, of Ottawa.

G. F. HENDERSON, K.C.: Mr. Chairman and members of the Committee: I would not feel that I could usefully add anything to the discussion were it not for the fact that since the year 1906—and that is some time ago now—I have been acting as Drainage Referee for the province of Ontario, and more lately as Natural Gas Referee, in addition to my ordinary practice, which is fairly active, and I think I can get into the sentiment of the province perhaps more deeply than any one else. I go about the province and in that way I have occasion to meet the County judges and the lawyers generally, and also I have been a Benchman of the Law Society for nearly ten years. In the last couple of years especially, since it seems to have become known that I was taking an interest in the question of the judges' salaries, I do not seem to go anywhere but somebody speaks to me about it, and in that way I think I have collected a fund of information—of a hearsay type, of course—but the more I hear, the more I feel the utter necessity in the public interest, of something being done to help the judges out.

Mr. SANDERSON: Pardon me, Mr. Henderson, but is this hearsay largely from the legal fraternity?

Mr. HENDERSON, K.C.: It is, naturally, from the legal fraternity, but also, and not infrequently, from reeves and deputy reeves of townships, and township clerks with whom I come in contact, and the question has been a very live subject. Then to take another point of view. Some years ago I had charge of the impeachment proceeds of a District judge. Later, I was in charge of the impeachment proceedings of a County judge; the only two cases which I think have happened in this province. On my return from the first of those, I remember distinctly, and this is in general reference to judges' salaries, telling the then Minister of Justice that I was firmly convinced of the fact that the further from Toronto, the greater the necessity of having a strong man in the position of County judge. I am stressing the case of the County judge, because I know my friends have taken care of the Supreme Court case, and I have nothing to say about that; I have no difference with the other members of the Committee. The County judge is the natural leader in his community. If he is not the leader in his community, something is wrong in that community. And to be the leader of his community, he must be able to be a leader in every sense of the term. If not, he cannot cope with the young lawyers Mr. Gordon speaks about, and Mr. Gordon is telling you the simple facts about them. Things have changed. Everybody is living better. The farmers are living better. I could tell any member of this Committee, whether representing a rural constituency or an urban constituency, of many experiences which I have had myself, showing how the farmer is among the first to realize how things are changing.

Miss MACPHERSON: If they were living like human beings, that would be true; but they are hopeless to improve their condition.

Mr. HENDERSON, K.C.: Absolutely not. May I tell you of a farmer? Not long ago, I was taken to the house of a farmer for my mid-day meal, while away on one of my Drainage cases. I was taken to the front door of a house that would be a credit to any in Ottawa. A nice lawn in front; a nice hedge about it, and all that sort of thing. I went in the house and I found there both rural and long-distance telephones. I found actually a toilet room for the accommodation of guests on the ground floor, a nice parlour, everything in order, and we sat down to our mid-day meal with the farmer and his wife.

Mr. SANDERSON: Pardon me, was the farmer a city man living in the country?

Mr. HENDERSON, K.C.: He was a farmer, born and bred on the farm, and I say it to his credit, and to the credit of the farmers of Ontario. At the table was the wife, a daughter no longer young, and a small boy, a really small boy. After the meal I told him that I was perhaps impertinent, but curious to know why he had such a very comfortable home, why he had provided it. He said, "not at all," he was very glad to tell me. He said that he lived not very far away from an almost urban community, and the temptation to the young people, in these days of motor cars, was to run into town at night, and he had had a family of daughters, all married except the one I had met, and this little boy had come along as an after-thought. He said, "I have done this simply to keep that boy on the farm, I want him to be able to bring his friends here, rather than to have to run up to town." I cannot help feeling that he was a wise man, and while that is an outstanding case, I have in mind and I could name dozens of cases.

Miss MACPHAIL: I do not think you who have never lived any place else, are in a position to tell us, any more about it than we already know.

Mr. HENDERSON, K.C.: That may be very true indeed.

Mr. SANDERSON: I fancy that perhaps—I may be wrong—this particular farmer you speak of must have inherited a lot of money.

Miss MACPHAIL: Yes, of course he had.

Mr. SANDERSON: And that he had a kind of show place, instead of a farm,

Mr. HENDERSON, K.C.: No, it was what one would call a very good farm, but you can go all along the Lake Erie front and go up to the county of Grey, and you will be struck with the difference between the farms now, and those of years ago.

Miss MACPHAIL: I have been there.

Mr. HENDERSON, K.C.: There is a great improvement all over the counties of Ontario.

Mr. Boys: Mr. Henderson, you would not think it necessary, or even fair to compare the salaries paid to a judge with the income of the ordinary farmer. Would it not be reasonable, if you want to make a comparison of that kind, that his salary, he being a leader, might well be compared with the salaries paid to the heads of the farmers' organizations. We were told by Mr. Justice Brown, that for instance, the head of the export company whose name was given, Mr. Derar, gets \$23,000; that ten superintendents in Regina get \$7,000 each; that Mr. Reid, the Treasurer—and he says "I am starting at the bottom and going upwards"—gets \$10,000; the Vice-President of the United Grain Growers gets \$13,000; the Vice-President of the Grain Growers, that is, Mr. Rice-Jones gets \$13,000; the manager of the Grain Growers gets \$15,000; the President of the United Grain Growers, \$18,000. I would think that perhaps it would be fair if we want to make a comparison of that kind,—and no one appreciates the life of a farmer more than I do—but if we must make comparisons, is it fair to compare what is made by an ordinary farmer with a judge who is supposed to be a leader in his profession?

Mr. HENDERSON, K.C.: I would fancy, Mr. Boys, that it would be more fair to make the comparison with the son of the farmer who has become a success in some other walk of life. There are many, whom any of us could name, some leaders of the medical profession, others leaders in the legal profession, and in every other profession, who are the sons of farmers. But, the point I was going to make and that I seek to make is this: I do not want to dilate on law and order and the necessity for that, and all that sort of thing. We all know that. The point I want to make is this, that the public generally look to the local judge as a leader in his community, and he should have an opportunity to advance

as all others have advanced. I do not need to make any comparison between the farmer or anyone else. I say, all have advanced.

Miss MACPHAIL: Some of the judges who gave evidence before this Committee said that a judge should not mix with the people, but be a sort of recluse, or something of that kind. If that is true, how can they be leaders of the people, unless they are of the people?

Mr. HENDERSON, K.C.: I do not say that the judges should be recluses; quite the other way about. My experience is that the judges are leaders in the local activities. I came this morning from Brockville. You will find the judges there taking an interest in all the activities; the church activities, the clubs, everything that is going.

Mr. CARMICHAEL: But not in political activities.

Mr. HENDERSON, K.C.: No.

Mr. BOYS: There has to be a line somewhere.

Mr. HENDERSON, K.C.: On one occasion I was talking to a prince of the Church who told me that he felt there were certain lines of politics that even a clergyman might take an interest in; municipal politics, for instance. He said he was a priest in the largest parish of Buffalo, and he was one of three friends who used to meet once a week, and join together for the express purpose of taking an interest in municipal politics, and he said "I venture to say we had some influence." I have said that he was a prince of the Church; his two friends were the Grand Master of the Masonic Order; and the Hebrew Rabbi. I do not know why a County judge should not take an interest in municipal politics and affairs, and I believe in many cases they do take the proper kind of interest, but the point I am seeking to make is this: that they have not been able in late years to keep pace with the increased cost of living, while maintaining that standard of life that they are expected to maintain, and actually must maintain. I could tell you of many cases, not having to go back more than a year or two, where judges have left their widows almost penniless; some very pathetic cases; I could tell you, as others have told you, of judges who have resigned from the Bench, or retired, who had, when they became judges, a reasonable accumulation of money, but that money gradually drifted away from them. Now, I am not going into details, but simply wish to say that I do feel that I have been very closely in touch with opinion on this matter, and as far as the difference between the County judges is concerned, while I believe that Mr. Jeffrey thought it costs more in Toronto and Ottawa and Hamilton, and in the larger places, slightly more, when you get beyond that question, you cannot very well differentiate between the judges. It is not the judge's fault that he has to work night and day; you should not judge him by "avoidupois," but by quality, and what we are anxious to do is to get conditions so that the best men may be secured for the positions.

The CHAIRMAN: Are there any other representatives of the County Bar Association, to be heard?

Hon. Mr. ROWELL: I think that covers everything, Mr. Chairman. May I supplement one point which I overlooked, in reference to the Supreme Court of Canada? Just an observation which may prevent any misapprehension. I notice on page 72 there is given a list of salaries prior to the last increase and then the increases.

Hon. Mr. LAPOINTE: Page 72 of what?

Hon. Mr. ROWELL: Page 72 of the record of your proceedings. I notice here it states that the previous salary of the Chief Justice was \$10,000; and the present salary is \$15,000. Just to remove any possible misapprehension, may I point out that prior to the increase in 1920, the Chief Justice also received

\$5,000 as administrator of the Government of Canada in the absence of the Governor-General. When the salary was fixed at \$15,000 in 1920, no additional allowance was provided; so that there was in fact no increase of the salary of the Chief Justice. That is, the total income of the Chief Justice was not increased, and what is more, he was made subject to income tax. So that, as a matter of fact, the total income of the Chief Justice of Canada today is substantially less than it was prior to 1920. Then this second point. The Bar feels very strongly on the point that the judges of the Supreme Court of Canada should receive a salary that would command in that court the strongest men we can get from the different provinces. They have to determine questions of the greatest moment: the powers of the Dominion Government; the powers of the provinces; constitutional questions of the gravest character. In the majority of the cases, they do not go beyond the Supreme Court judges should be very substantially increased, above the salaries of even the High Court judges in the provinces.

Then, the only other observation I have to make is this: Some of you are familiar with the hearings that took place before the committees on the Judiciary, of the Congress of the United States, in 1925 and 1926, when they were considering the increase of judicial salaries. Some very important representations were made to that Committee, and of particular interest were the representations made by the representatives of organized labour. They are not long, and I would suggest that the Committee, if it think it desirable to do so, might incorporate in your record the letter of the President of the American Federation of Labour of February 5th, 1926, and the communication of Mr. John L. Lewis, President of the United Mine Workers of America, of January 14th, 1926, because they point out—from the standpoint of the interests of the worker—how essential it is to have men of the highest character on the Bench, and that they should not be dependent on men who have accumulated means sufficient to enable them to go on the Bench.

Mr. LADNER: If it is in order, I would move that the documents referred to be recorded.

Hon. Mr. ROWELL: It represents the view of the workers, of having that type of men on the Bench, that I have described, and not men who have accumulated means sufficient to enable them to afford such an appointment; because it is thought that they might be less sympathetic with the man of small means as compared with or opposed to those of large means.

Mr. CARMICHAEL: Have you any resolutions from labour organizations in Canada, Mr. Rowell?

Hon. Mr. ROWELL: No, I have not. If I had, I would be glad to give them to the Committee.

The CHAIRMAN: Will you be good enough to hand that document to the porter, in order that it may be incorporated in the record?

The documents referred to are as follows:—

AMERICAN FEDERATION OF LABOR,
WASHINGTON, D.C., February 5, 1926.

Hon. GEORGE S. GRAHAM,
Chairman, Committee on Judiciary,
House of Representatives, Washington, D.C.

DEAR SIR: For obvious reasons the working people of our country are deeply interested in the kind of people and the character of people who serve as Federal judges. Naturally, this involves many considerations, such as training, ability, character, and fitness. But even though

people qualified to serve as Federal judges may possess all of the essential qualifications, it is impossible to serve as a Federal judge unless opportunity, circumstances, and conditions make it possible to do so.

For this especial reason, I deem it proper and fitting that I should write you with reference to adequate compensation for Federal judges. Naturally the wage-earning masses who constitute such a large part of our country's citizenship, and for whom I have authority to speak, are vitally interested in a practical and intelligent economy of public expenditures. The relationship of direct and indirect taxation to such public expenditures—touches the economic and industrial life of the workers very closely indeed. But the workers are also tremendously interested in an impartial, orderly, and speedy administration of justice. This, they realize, can not be accomplished except through the services of judges of the highest character and ability.

Such judges should be paid by our Government a compensation sufficient to enable them to live in comfort and to make proper provision for the care and needs of their families. The judicial position is one of great honour and dignity. It should be upheld by those who occupy it with both propriety and independence. While the compensation of a judge can not be expected to equal the larger rewards at the bar, it ought to be large enough to support him in his dignified situation in that ample ease that gives him entire freedom from mental worry over finances and financial income.

Speaking from the viewpoint of the average man, I should like to urge that judicial positions be made attractive to all members of the legal profession who possess high character, legal training, fine accomplishments, and freedom from prejudice. Lawyers possessing these essential qualifications are not found only among those whose earnings have been so large that their independent incomes make the judicial salary unimportant. It is reasonable to conclude that the lawyer of wealth has so long represented special interests that human like and in spite of efforts to the contrary he has unconsciously acquired a mental bias which prevents an impartial attitude toward enlightened justice.

Manifestly the salary of the Federal judges in this democratic country must be large enough in the interest of equal justice for all our people to enable the lawyer of commanding ability but of modest financial means to enter cheerfully upon a lifetime of service on the Federal bench.

The bill you have introduced in the House of Representatives (H.R. 7907) provides salaries for the various Federal judges which are no more than adequate for them, having regard to the considerations I have already referred to, and I trust it may promptly be enacted into law.

Very truly yours,

WM. GREEN,
President American Federation of Labour.

NEW YORK, N.Y., January 9, 1926.

Hon. GEORGE S. GRAHAM,
Chairman Judiciary Committee,
House of Representatives,
Washington, D.C.

DEAR SIR,—I presume to address you with respect to H.R. 3831, introduced in the Sixty-ninth Congress, having for its purpose increases in the salaries of Federal judges of the several constituted courts.

Circumstances have given me rather unusual opportunities, extending over a substantial term of years, to observe the workings of our Federal Courts and to become more or less familiar with the personnel of the judges. As a result of this experience and observation I am convinced that the salaries of Federal judges should be substantially increased in order,—

1. That we have an absolutely independent judiciary—inde-
pendent of everyone and every influence except justice.

2. Since Federal judges are practically barred from earning any-
thing but their salaries, they and their dependents should be made
independent of all outside influence in regard to the necessities of
life, measured by the proper standards of their stations in life.

3. They should be removed from the temptation of supplying
their needs from sources other than their salaries.

4. It is too often the case that a Federal judge living upon an
inadequate salary will be tempted to shape his course while on the
bench so that he may resign from the bench, at the most useful period
of his official life, and obtain employment at a vastly increased pay,
with business enterprises, the affairs of which he has become familiar
with while discharging his official duties. In the interest of the whole
American people, and especially in the interest of the wage earner,
this should be guarded against.

5. The entire proposed salary increase for all Federal judges
amounts to less than the amount involved in a single suit which is
before each judge almost daily.

6. The far-reaching influence of Federal decisions in the affairs
of this great industrial nation is too important to the whole citizen-
ship to be injuriously influenced by the inadequacy of salaries.

7. Salaries should not be slightly increased, but substantially
increased, and those proposed by bills introduced in the House and
Senate of the present Congress, by members of the Judiciary Com-
mittees, are none too large.

I express the hope that when considering this important legislation
the distinguished members of your Judiciary Committee will give favour-
able consideration to the foregoing views.

Yours truly,

JOHN L. LEWIS,
President, United Mine Workers of America.

Hon. Mr. ROWELL: My last point is this: We do think it desirable to
appoint younger men to the Bench, if it is possible to get them, so that a man
may be able to give years of service. I think many of the members of the
Bar would like to see men appointed to the Bench while they are between the
ages of forty-five and fifty. If you are to get men of that type, you must make
a salary that will appeal to men, not who have earned competence, but would

appeal to men in their prime to make the position of a judge their life-work, and give years of service to the country.

Mr. BOYS: Mr. Chairman, I notice in the record of proceedings, a statement of the jurisdiction of the various judges of the province, and I notice on page 95 a reference to Ontario.

The CHAIRMAN: It has been pointed out that that statement is incorrect, in some particulars.

Mr. BOYS: I might take this opportunity to give something on the subject of jurisdiction. It will only take about five minutes, and I do not know that I can do it better than through Mr. Henderson, if he will enable me to do it through him, to get something on the record which will adequately indicate the jurisdiction of the County judges in Ontario. I am sure Mr. Henderson will not mind answering a few questions for me.

Mr. HENDERSON, K.C.: I will be very glad to do so.

Mr. LADNER: I observe that His Honour Judge Huycke is here, and there are some questions that I want to ask him.

Mr. BOYS: I do not object to that, but I would like to have it come from a member of the Bar, and from a judge too.

Mr. HENDERSON, K.C.: His Honour Judge Huycke I know has all the figures. My recollection might fail as to some item. I would ask if I may refer to him.

Mr. BOYS: If necessary. I do not think you will find it necessary. In the first place, I think it has been brought out already from Mr. Jeffrey that there is now unlimited jurisdiction in Ontario, throughout the counties of Ontario.

Mr. HENDERSON, K.C.: If that is consistent with the papers filed in the case.

Mr. BOYS: And that is not only so in regard to civil matters, but also with regard to the validity of wills.

Mr. HENDERSON, K.C.: Yes, that is my recollection.

Mr. BOYS: Then they have criminal trials at the sessions, and summary trials of criminal cases.

Mr. HENDERSON, K.C.: It is the common experience throughout the province that the County Judges' Criminal Court is doing all the work that can be done by that Court. There are a few major criminal charges with which it is not competent to deal.

Mr. BOYS: Liquor appeals come before them.

Mr. HENDERSON, K.C.: Yes.

Mr. BOYS: Ditch and Drainage appeals. I know they go beyond, in the case of drainage, to you.

Mr. HENDERSON, K.C.: Very rarely.

Mr. BOYS: Also the following: Line fence appeals; voters' list revision; assessment appeals; county audits; passing of accounts in the Surrogate Court; applications under the Children's Aid Act; Appeals regarding illegitimate children; appeals from summary convictions of various natures; mechanics' liens; landlord and tenant questions; overholding tenant questions?

Mr. HENDERSON, K.C.: Yes, all of those.

Mr. BOYS: And especially prolonged work in connection with the revision of the voters' list in provincial and Dominion elections.

Mr. HENDERSON, K.C.: Yes. In that connection I have sometimes mentioned my own thought, that a judge who has such a multiplicity of work to do requires

an exceptional keenness of intellect. Take myself; in my drainage work I have only practically two classes of work; I would be stupid if I could not do it well by this time. The County judge has to change in a moment from one kind of thing to another. In the one day he may have to deal with many different kinds of cases. He has to be an encyclopaedia of useful knowledge.

Mr. BOYS: In connection with a lot of that work, is it necessary for the judge to leave his home and visit the locus?

Mr. HENDERSON, K.C.: Oh, very frequently.

Mr. BOYS: Then the only other thing I want to ask you is in regard to your own County. I know my own. Are you able to say how many Division Courts the judge of your County holds outside of Ottawa?

Mr. HENDERSON, K.C.: I cannot say that from recollection. I can get that for you.

Mr. BOYS: In the list I gave, I should have mentioned naturalization matters. I think that is very important.

Mr. HENDERSON, K.C.: Yes, naturalization, and I think perhaps there are some other things you have not thought of. I am informed now that there are seven Division Court points in Carleton, and eleven in the Counties of Prescott and Russell. The work for all three counties is centralized in Ottawa.

Mr. BOYS: How many Courts are held in each of those outside places in a year?

Judge CONSTANTINEAU: Four in the outside District, and every week in Ottawa. Two days a week in Ottawa at least.

The CHAIRMAN: I have a communication from the President of the Board of Trade of Toronto which I can read into the record.

The Communication referred to is as follows:—

April 26, 1928.

The Special Committee of the
House of Commons, to consider
Judges Salaries.

GENTLEMEN,—The Council of the Board of Trade of the city of Toronto desires to support in principle the submission of the Canadian Bar Association to the Government of Canada for an adjustment in Judicial Salaries believing that the sympathetic and favourable consideration of the proposal by the Government and Parliament will be in the best interests of the administration of justice in Canada.

The Judicial Salaries' Committee of the Canadian Bar Association, which is composed of many of the most eminent counsel in Canada, has after a close study of the question presented a carefully prepared memorandum to the Government setting forth their conclusions and recommendations and stating that the high standard of the Canadian Bench cannot be maintained unless the Government is able to secure men of the highest professional attainments for these positions and the salaries are sufficient to enable the occupants of these important and honourable positions to retain their status in the community.

The Council of this Board most heartily concurs in this statement and trusts that as a result of your deliberations such recommendations will go forward to Parliament and be accepted by that body as will ensure for the Judiciary the most capable members of the Canadian legal profession.

Yours truly,

(Signed) A. C. BURTON,
President.

Mr. LADNER: Mr. Chairman, at this stage of the proceedings, there are some features of the statement on behalf of the Bar Association, which I think it might be of advantage for us to discuss with His Honour Judge Stubbs, and His Honour Judge Huycke who are here. There are some questions I would like to ask them. I would ask that His Honour Judge Stubbs be recalled, and that questions be asked him, and likewise His Honour Judge Huycke.

The CHAIRMAN: Is that the desire of the Committee, that these gentlemen be recalled?

Mr. BOYS: I understand this is merely some questions the members of the Committee desire to ask. Surely that would be in order?

The CHAIRMAN: Yes. Whom do you wish to call first.

Mr. LADNER: His Honour Judge Stubbs.

HIS HONOUR JUDGE STUBBS recalled.

By Mr. Ladner:

Q. Judge Stubbs, I would like to ask you this question first. There has been a recommendation, on the part of the Bar Association that there should be a difference in the increase of the salaries of the County judges as compared with, I think it has been put, the city judges. I understand the County Court judges have an organization comprising the whole Dominion, including both the county and city judges and that they have come to a conclusion, and we have heard something about it in a statement of the County Court judges, and I would like to ask you, upon the same question, in order that the matter may be clear before the Committee, the reasons that are behind the information that has been given.

HON. Mr. LAPOINTE: I believe that point was dealt with, was it not?

Mr. BOYS: On page 4 it was dealt with very minutely.

Judge STUBBS: Yes, we did deal with it, but there is just one point I would like to make reference to, in view of the particular statements of my friend Mr. Rowell. The statement was that the County Court judges of Ontario had passed a resolution.

The CHAIRMAN: Was not that explained by you, that subsequently to the passing of that resolution, the County Court judges of Ontario had fallen into line with the other judges.

Judge STUBBS: I think it was not quite right of Mr. Rowell to draw attention to that. Every member of the County Court Bench in Canada is standing behind uniformity for County Court salaries; including the County Court judges of Toronto.

The CHAIRMAN: I think you made that clear on the previous occasion.

Mr. LADNER: Mr. Chairman, we have Judge Stubbs here, and for my part I think, for the Committee and the Members of the House, there is an apparent difference on a question that is vital. The recommendation of the Bar Association in answer to my question disclosed no information on which their recommendation was based, beyond their general opinion. The point that is particularly relevant now is the fact that Judge Stubbs represents the County Court judges' organization, and from actual experience, he did make a statement. Now, we want to answer the statement, and it will not take Judge Stubbs long to answer it.

The CHAIRMAN: I understood it had been answered.

Judge STUBBS: I shall be very glad to deal further with it. We are very glad indeed for all that Mr. Rowell and the other members of the Bar have said insofar as the County Court is concerned; but we must again emphasize our

situation, that we think the Canadian Bar Association are not quite fair to us in that statement, in that they discriminate too strongly against us. I would like to say one word on the English jurisdiction, because that also has been referred to, and the disparity there has been referred to a number of times. There is no comparison between the English County Courts and our County Courts. They are relatively unimportant. They have nothing like the same jurisdiction that we have, so that you cannot compare the salaries there. Further, so far as salaries in the Old Country are concerned, they have been practically stationary for nearly a century; the High Court judges for nearly a century.

The CHAIRMAN: I think that was also made clear that the jurisdiction of the County Court judges in England, is not comparable to the jurisdiction of the County Judges here.

Judge STUBBS: That was not dealt with at any length. It is necessary because if you are going to bring in the situation there at all, it should be brought in fairly. We ask you to give consideration to the relative importance to the two Courts that we started off with at Confederation.

The CHAIRMAN: I think the Committee is fully seized of that distinction between the jurisdiction of County Judges in England, and County Judges here.

Judge STUBBS: I am very glad that that is the case.

Mr. CANTLEY: Mr. Chairman, I do not know whether it is the intention of the Committee that the evidence should all be put in at this session or not. I do not know that the Maritime provinces are represented here by any of the judges, and I would like to point out this: so far as the distribution of County Court Judges in the various provinces of the Dominion is concerned. Ontario has 64 County Court Judges. Taking the population as three million, that gives one County Court judge to 47,000 of a population. In Nova Scotia we have eleven County Court Judges, and taking the population at 523,000 it works out at 47,500 population per County Court judge. British Columbia on the other hand, with practically the same population as Nova Scotia has 14 judges. I will admit that that is not a fair comparison, because the amount of territory in British Columbia is so very much greater.

The CHAIRMAN: I suppose the remedy really lies with the provinces in that respect.

Mr. CANTLEY: Well, possibly. Now, from another point of view, reference has been made to the amount of criminal work that the County Court Judges are doing. Take Judge Paterson for instance, who has both the County of Pictou and the County of Cumberland; two of the largest counties in the province, comprising practically one-sixth of the entire population of the province. During the last two years he presided at 117 criminal trials; while the Supreme Court judges in the same period had 22 trials. Reference has been made also to the salary of the Chief Justice of one of the provinces for administering the Government. So far as the Chief Justice of the province of Nova Scotia is concerned, there is no additional remuneration when acting as an administrator of the Government. I could also point out that in Nova Scotia County Court judges get no fees of any kind or description. These I think are all points of some little importance, and I would like them to go on the record.

Mr. CARMICHAEL: Mr. Chairman, if this is our final meeting for getting in all relevant information, I have some statements of importance here by a judge that should be put on the record, he asked me to bring it up. This Judge wanted to appear before the Committee, but did not find it possible to do so. It is in regard to living allowances paid to Judges when away from home on judicial matters. This particular Judge comes into the judicial district that I happen to be in, not every week, not every two weeks, but I believe he has consumed a

total of 70 days in the year in attending to the duties in my own judicial district. He has to leave his home town early in the morning, and gets into my town at ten o'clock at night; he attends to his judicial duties after he gets there at ten o'clock, and leaves at six o'clock the next morning. That means one day and two nights. The allowance is not sufficient to pay his out of pocket expenses. Sometimes he lives on the train for two days, and has to pay out heavy sums for covering expenses.

The CHAIRMAN: Perhaps you had better read the letter into the record.

Mr. CARMICHAEL: It is rather long, and is not all of importance, but these are the important points he outlines, that he is putting in 70 or 75 days attending the Kindersley Court, and thinks that some additional item should be allowed for expenses.

Mr. Boys: Before this closes, Mr. Chairman, I would like to submit this, that the Chairman of the County Court Judges' Association is here, and I would ask that Judge Huycke be given an opportunity of saying anything he wishes upon any point that has not been touched upon already.

His Honour JUDGE HUYCKE: Mr. Chairman, I wish to thank Mr. Boys on behalf of the Judges' Association I represent. His Honour Judge Stubbs mentioned one or two things I had put down here, as to the English Jurisdiction. Some reference has been made to the Judges of some of the provinces getting Surrogate fees, and others not. That is unfortunately true, but in the provinces where they do not get the fees, they do not do the Surrogate work. For Surrogate work, which is the same as the Probate Judges do in England, they employ our judges; that authority is vested in us by the province.

I would suggest that the Surrogate work is work which does not come under your jurisdiction here, but from elsewhere, and therefore should not be considered.

I wish to simply verify or corroborate, rather, what Judge Stubbs said about the unanimity of the Judges with regard to uniformity. What he said was quite correct, and what Mr. Rowell said was quite correct. Some couple of years ago or thereabouts the Judges of the County of York were making an effort to get some increased remuneration by way of living allowance, and a resolution such as was read by Mr. Rowell was passed at a meeting of the Judges' Association of the Province of Ontario. Since that time that has been abrogated positively and definitely. In addition to that, there is a memorial that has been signed by every Judge in the Dominion, without any exception, which includes the Judges of the County of York and the City of Toronto, in which they ask for uniform fees. If there is any question any of you would like to ask, I will try to answer it as best I can.

Hon. Mr. ROWELL: May I say that the resolution read by me was sent me by Judge O'Connell. That is all I can say about it.

The CHAIRMAN: What is the wish of the Committee as to future sessions and other witnesses to be heard?

Mr. LADNER: Before coming to that point, there is a memorandum for the use of the Committee submitted by the County Court Judges of the City of Vancouver, which contains some data.

The CHAIRMAN: Put it in the record.

Mr. LADNER: I do not think the whole thing needs to go in, but there are some things in it that are rather pertinent. Part of this memorandum reads:

The attached memo shows the jurisdiction of our County Courts and in addition Sect. 24 of our County Court Act provides that if the parties agree the County Court Judges may try any civil action that may be brought in the Supreme Court. For 1926, 1,508 writs were issued in our

Supreme Court and 3,558 writs were issued in our County Court. This applies only to the County of Vancouver. Besides, we have had 51 trials before our County Court Judges' Criminal Court, together with all the multifarious applications and matters mentioned in section 3 of the Saskatchewan memorial.

Here is a complete statement of the jurisdiction of the Courts in British Columbia.

His Honour JUDGE CONSTANTINEAU: Mr. Chairman, I asked this morning if I could not make two or three corrections. I think you overlooked that. If you wish, I will send these corrections to you. I would like to have them recorded, because they put in my mouth two or three passages that convey a wrong impression. I will send them to the Chairman.

The CHAIRMAN: Perhaps if you could mention them briefly, you could do it more quickly now.

Hon. Mr. LAPOINTE: It must be short, if it is simply to remove a platitude and turn it into something nice.

Judge CONSTANTINEAU: I was trying to explain that the cost of living did not depend entirely upon the price of a certain commodity in a certain year.

The CHAIRMAN: Will you refer to the page of the record as you go along?

Judge CONSTANTINEAU: At page 17 I am reported to have said:

For instance, say a piece of dress goods cost 50 cents in 1913, and it costs to-day \$1, the index number will tell you that to buy a dress for a lady, it costs exactly twice. That is 100 per cent. That is quite incorrect. The lady that was willing to wear 50 cent dress goods in 1913,—

We know that there have not been such changes in Canada, that is important. The most important is in another part; I cannot find it here, but I am reported as saying that the Superior Court Bench and the County Court Bench were manned by holy men. The reporter has given fairly the main reasoning of my argument, but left the keynote of the argument out. I said they were holy men because if they were not holy at the time of their appointment they became so by the penance of starvation over a number of years. But the worst of all was at the end of my argument:—

I would say this in conclusion, that if the British Parliament, the British form of government, were to disappear from the face of the earth to-day, then future generations, possibly a thousand or two thousand years from now, will care very little about naval victories, or about victories on land.

Of course I never said such a platitude as that. I was trying to emphasize the glorious traditions of the British Bench, and I said if Great Britain were to disappear to-day, generations to come, possibly in one thousand or two thousand years, would remember very little of the great victories of the British people on land or sea, but what would survive forever in the memory of those distant and faraway generations would be, beside her literature and her great parliamentary institutions, the high standard of her administration of justice. That is entirely different from the platitude that is here.

Mr. BOYS: That will not affect the increase.

Judge CONSTANTINEAU: Allow me to make one more remark. There has been a great deal of discussion here as to the uniformity of salaries. Dealing with the district here, which consists of three counties, Carleton, Prescott and

Russell, the first of which includes the city of Ottawa, in 1920 the Hon. Mr. Doherty proposed a resolution in the House, which read this way:—

To every County or District Court Judge in whose county or district there is a city of forty thousand or over, there shall be paid an additional sum of One Thousand Dollars.

In this district we have three Judges, nominally, two for Prescott and Russell and one for Ottawa, although we sit here practically all the time where the main work is done. I tried to see the Hon. Mr. Doherty to see whether that would include myself and my junior. I did not see him, because it was within forty-eight hours of the end of the session. However, I entrusted the interview to Mr. Edwards, the Deputy Minister, and he went to see Mr. Doherty. Mr. Doherty said, "Certainly, it was my intention that it should apply to the three Judges," and he added, "Tell the Judge if it is not clear enough I will make that clear when I introduce my legislation."

He said, your district is wide enough to include, because it forms the district of Carleton, Prescott and Russell. If you are going to discriminate between salaries, here are three men doing an equal amount of work, holding chamber motions and so forth; are you going to pay more to one than to another because one happens to be nominally a Judge for the town of Prescott and one nominally for the city of Ottawa?

Mr. LADNER: In our enquiry into the recommendations of the various judges of the Courts in Canada, there is bound to come up the question of the Board of Railway Commissioners, who are in the exercise of very wide powers throughout the Dominion. There are two features to it, to make my statement complete; one is the question of their salaries, which salaries were fixed in 1903 at \$8,000, with the Chairman's salary at \$10,000; there was an alteration in 1912, when the Chief Commissioner received \$12,500, the Assistant Chief Commissioner \$10,000, and the others \$8,000. Then there is the question of superannuation. I have seen an editorial in the *Ottawa Citizen* and another newspaper, in which there is a comparison between a Supreme Court Judge who after giving ten years of service can retire on \$8,000 a year, and a member of the Board of Railway Commissioners (in this case the Hon. Frank Oliver), who might give ten years of service and retire without any retirement allowance at all. In my district, the far-reaching effect upon every class, of the judgments of the Board of Railway Commissioners, merits the consideration both of the adequacy of the salary and the question of superannuation, but certainly the salary.

Mr. SANDERSON; We have no jurisdiction over that.

Mr. BOYS: You would have to apply to the House to enlarge the scope of the reference.

Mr. LADNER: It has to come up some day. Some day it will have to be brought up for consideration by a Committee of Parliament. Some day we are going to have to bring it before the country. By a judgment of the Privy Council, the Board of Railway Commissioners is a Court of Record, and these men do exercise judicial functions.

Mr. SANDERSON: But this Committee has no jurisdiction in that matter at all.

Mr. LADNER: I am saying that the order of reference refers to those exercising judicial functions in our Courts; the Board of Railway Commissioners constitute a Court, and it exercises judicial functions. That was decided by the Privy Council in a case in 1911.

Mr. BOYS: We are not disputing that, and I do not say that I do not agree with what you say. Where do you suggest that we have jurisdiction? Here is the reference:

That a Special Committee consisting of fifteen members to be selected at a later date be appointed to consider the question of the adequacy of the remuneration paid to the Judges of the various Courts in Canada.

You do not suggest that that includes the Board of Railway Commissioners?

Mr. LADNER: They are Judges of a Court of Record.

The CHAIRMAN: That is Mr. Ladner's argument.

Mr. LADNER: It is supported by a judgment of the Privy Council. I will give you the reference. It is a judgment of Lord Atkinson, delivered May 10, 1911, reported in 1911 Appeal Cases, at page 461, in the case of the C.P.R. v. the City of Toronto and the Grand Trunk Railway. I will not read the whole paragraph, but this is stated:

For the purpose of exercising their jurisdiction, they are a Court of Record, and have all the powers of a Superior Court.

His Lordship then deals with the functions of the Supreme Court and of the Board of Railway Commissioners. My contention is that being a Court of Record and exercising judicial functions, it would be well for this Committee to deal with this question just the same as the cases we have been dealing with.

Mr. BELL (Hamilton): There is first of all the question of whether they come within the scope of the reference, and, secondly, whether there is evidence available to support the claim of the Dominion Railway Commissioners. If Mr. Ladner's suggestion is that they should be considered in the matter, and that there is evidence by which we can arrive at a decision, well and good. It seems to me it would be fatal to include them, standing, as they are, without any evidence to support them.

Mr. LADNER: My proposal is that we should invite the Board of Railway Commissioners, or someone representing them to make a statement, just the same as we have invited the Judges of the Courts of Canada.

The CHAIRMAN: I doubt whether it was in the contemplation of the House that that question should be considered by the Committee. It is true that the language of the reference might be open to that interpretation, but I feel very certain that it was not in the contemplation of the House at the time.

Mr. BOYS: We should hear from the Minister on this point.

The CHAIRMAN: That was not within the contemplation of the House when the committee was formed.

Hon. Mr. LAPOINTE: I must admit that I did not think it was at the time. I have no objection to the committee considering their case if it is thought advisable.

Mr. CARMICHAEL: Mr. Ladner's argument, Mr. Chairman, should be enlarged to include all the members of Parliament. Parliament is a court and is often referred to as the leading court of the land.

The CHAIRMAN: That is very loose language.

Mr. LADNER: We are not a court of record.

Mr. CARMICHAEL: That language is no looser than that used to include the members of the Railway Commission under what we are now investigating.

Mr. LADNER: Unless the Minister objects for reasons of his own—and I have always great respect for the judgment of Mr. Lapointe—I would move that the committee notify the Board of Railway Commissioners to submit a state-

ment with respect to the question of salaries, for consideration by this committee, on the same lines as the judges have submitted theirs.

Mr. TOTZKE: Would it not be better to refer the resolution back to the House?

Mr. LADNER: No; I think the scope of the reference includes the Railway Commission.

Mr. CARMICHAEL: I do not think it was ever intended that we should go beyond what we have already done.

Mr. LADNER: I make that motion. I think that is a matter of record affecting the interests of this country and the equities and fairness of the case, and we should deal with this and not stick on a technicality.

Mr. BOYS: I have a good deal of sympathy with what Mr. Ladner has to say about their remuneration, but I do not believe for a moment it was intended that the resolution submitted to the House and passed was to include them. Now then there is another feature: It is a matter which the Government can deal with. There are only five Commissioners to consider, and they can deal with the question at any time if they so desire.

Hon. Mr. LAPOINTE: May I add that they are under the Minister of Railways and not under the Department of Justice.

Mr. BOYS: I am merely referring to you as Minister in charge, as it were, of this Committee, in a sense.

Hon. Mr. LAPOINTE: It adds a strength to your contention that they were not contemplated when the motion was made.

Mr. BOYS: Yes. I go further and say that it does not involve a lot of individuals throughout Canada in the various courts. They are only five in number, and the Government, whenever they see fit, can deal with that matter, and provide for an increase, if they think it should be done.

Mr. LADNER: Their work involves the whole public of Canada.

Mr. BOYS: I have already said that I think they perform most important functions, do an immense amount of work, and possibly should receive more money. But that is not the point that is now before us. If we are told here by the Chairman and by the Minister that it was intended to cover them and that it is our duty to do it, I would agree with what you say, but unless it goes that far, I do not think we should.

Hon. Mr. LAPOINTE: I know that representations have already been made to the Minister of Railways in regard to the salaries of the Board of Railway Commissioners. He has not taken any action on that so far. Now, do you think that anything this Committee may do will help the Board of Railway Commissioners, when their case really was not contemplated when the Committee was appointed.

Mr. LADNER: I do not know whether or not it was contemplated, but the whole point in my mind is that as they are exercising such a great judicial power, with such far-reaching effects on every class of society, and greater by far than many of the courts, as a matter of justice and fair play, they should not be overlooked. I am not speaking of technicalities. If you think we have not the scope here, then we should move to add to it, and spend an hour listening to them.

Mr. BOYS: There are various Ministers of the Crown who exercise judicial functions. They are absolutely judicial officers under the respective Statutes. You might as well say that under this reference, we should take into consideration their remuneration. It does not say, "a court of record," in this.

Mr. LADNER: The courts have decided that they are a court of record.

Mr. BOYS: "Court of record" is not mentioned.

The CHAIRMAN: If we are, we may as well inquire into the functions and remuneration of certain officers of the police forces. They have certain judicial functions to perform.

Mr. LADNER: The word "Court" has a very well defined meaning.

The CHAIRMAN: There is a motion before the Committee. Is there any seconder to the motion?

Mr. LADNER: It does not require a seconder.

The CHAIRMAN: Very well if it does not need a seconder, all in favour of the motion?

Mr. LADNER: Yea.

The CHAIRMAN: Contrary?

Several MEMBERS: Nay.

The CHAIRMAN: I declare the motion lost. When will the Committee meet again?

Mr. SANDERSON: I move that we adjourn until Wednesday of next week.

The CHAIRMAN: I understand there are no more witnesses to be called. The motion is then to adjourn until next Wednesday at 10 a.m. to consider the evidence and report.

Mr. CARMICHAEL: Are you sure that we will have the record in our hands before then?

The CHAIRMAN: I am sure that it will be in our hands some time. If through some unforeseen circumstance it is not, we may have to adjourn.

The Committee adjourned until Wednesday, May 9th, at 10 a.m.

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SESSION 1928
HOUSE OF COMMONS

SPECIAL COMMITTEE

ON

JUDGES' SALARIES

MINUTES OF PROCEEDINGS AND FINAL REPORT

No. 5—May 9, 1928

No. 6—May 10, 1928

No. 7—May 11, 1928

No. 8—May 15, 1928



MINUTES OF PROCEEDINGS

WEDNESDAY, May 9th, 1928.

The Committee met at 10 a.m., the Chairman, Mr. Thorson, presiding.
The Minutes of the previous meeting were read and adopted.

Members present: Messrs. Bell (Hamilton), Bell (St. John-Albert), Boys, Carmichael, Duff, Fafard, Gershaw, Hay, Ladner, Lapointe, Macphail (Miss), Sanderson, Thorson, Totzke—14.

After discussion in camera the Committee adjourned to May 10th at 3.30 o'clock.

A. J. McKENNA,
Clerk of the Committee.

THURSDAY, May 10th, 1928.

The Committee met at 4.30 p.m., the Chairman, Mr. Thorson, presiding.

Members present: Messrs. Bell (St. John-Albert), Boys, Cantley, Carmichael, Duff, Fafard, Gershaw, Hay, Ladner, Lapointe, Macphail (Miss), Sanderson, Thorson, Totzke—14.

After discussion in camera the Committee adjourned to May 11th at 4 o'clock.

A. J. McKENNA,
Clerk of the Committee.

FRIDAY, May 11th, 1928.

The Committee met at 4 p.m., the Chairman, Mr. Thorson, presiding.

Members present: Messrs. Bell (St. John-Albert), Boys, Cantley, Carmichael, Duff, Gershaw, Ladner, Lapointe, Macphail (Miss), Sanderson, Thorson, Totzke—12.

After discussion in camera it was decided that tentative proposals should be presented by various members of the Committee at their next meeting to assist in drafting the final report.

The Committee then adjourned to Tuesday, May 15th, at 4 o'clock.

A. J. McKENNA,
Clerk of the Committee.

TUESDAY, May 15, 1928.

The Committee met at 4 p.m., the Chairman, Mr. Thorson, presiding.

All the members of the Committee were present.

After discussion in camera, the terms of the final report were drafted and agreed to.

The Committee adjourned.

A. J. McKENNA,
Clerk of the Committee.

FINAL REPORT

The Special Committee appointed to consider the question of the adequacy of the remuneration paid to the judges of the various courts in Canada beg leave to present the following as their Second and Final Report:—

Your Committee, which is composed of fifteen members, was appointed on April 13th, 1928, in accordance with a resolution passed in the House on March 20th, 1928, and were empowered to send for persons, papers and records, to examine witnesses under oath, and to report from time to time, and were further empowered on April 19th, 1928, to print their minutes of proceedings and any evidence taken by them, and to sit while the House is in session.

Your Committee met for organization on April 19th, 1928, and since then have held seven sessions and heard twenty witnesses. Representations were also made to your Committee by letters and telegrams from numerous persons who will not appear before them. Your Committee also had before them reports of committees of the County Court Judges and of the Canadian Bar Association, resolutions from various organizations and information from the Department of Justice and the Bureau of Statistics.

Your Committee gave careful consideration to the question referred to them and find that the remuneration paid to the judges in the various courts in Canada as hereinafter mentioned is inadequate and ought to be increased.

Your Committee, therefore, recommend:—

1. That the salaries of the judges of the District and County Courts of the various provinces of Canada be increased by \$2,000 per annum each.
2. That the salaries of the judges of the Superior Courts of the various provinces of Canada, and of the Exchequer Court of Canada be increased by \$2,000 per annum each.
3. That the salaries of the judges of the Supreme Court of Canada be increased by \$3,000 per annum each.

A printed copy of the Committee's minutes of proceedings and evidence is herewith submitted for the information of the House.

All of which is respectfully submitted.

J. T. THORSON,
Chairman.

